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**PERSPECTIVES ON CHALLENGES IN THE PROP-
ERTY INSURANCE MARKET AND IMPACT ON
CONSUMERS**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS
FIRST SESSION
ON
EXAMINING THE PROPERTY INSURANCE MARKET AND ITS IMPACT ON
CONSUMERS

SEPTEMBER 7, 2023

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PERSPECTIVES ON CHALLENGES IN THE PROPERTY INSURANCE MARKET AND IM- PACT ON CONSUMERS

THURSDAY, SEPTEMBER 7, 2023

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10 a.m., in room SD-538, Dirksen Senate Office Building, Hon. Sherrod Brown, Chair of the Committee, presiding.

OPENING STATEMENT OF CHAIR SHERROD BROWN

Chair BROWN. The Committee on Banking, Housing, and Urban Affairs will come to order. Welcome back witnesses who have been here before, and welcome colleagues and staff. The first hearing, obviously, post-Labor Day.

Few financial decisions are more important than buying a home. Homebuyers make an investment in themselves, their families, their communities. Home-buying is an act, essentially it is an act of optimism. It is also stressful. Families buying a new home have so much to think about, making sure they cover their downpayment, navigating the mortgage and closing process, moving in, getting kids set up in a new school, if they have children. Buying homeowners insurance has always been a part of that process and gives families certainty and peace of mind.

Homeowners are confident their monthly insurance premiums will provide a backstop against the physical and financial devastation that could ensue, if their largest investment is threatened by the increasing numbers of natural disasters: a tornado, hurricane, wildfire, other dangers, or incidents, or accidents. Knowing that they are covered can help homeowners sleep better at night, or that is how it is supposed to work.

Increasingly, homeowners have faced an unpleasant surprise when it is time to renew their policies.

Homeowners who spent years making their payments, regularly, without fail, are shocked to find their insurer has raised costs, has limited coverage, or in too many cases will not renew their policy at all. Insurers have abandoned, in some cases, entire markets, leaving consumers with fewer options that cost more and provide less coverage. Consumers are counting on their insurers now more than ever.

According to NOAA, since the beginning of the year the country has experienced 15 weather disasters, each resulting in losses of

more than \$1 billion—15 weather disasters, costing more than \$1 billion. Swiss Re, a leading reinsurance provider, estimated that severe storms resulted in \$34 billion—with a “B”—of insured losses in the first half of this year alone, the highest ever in a 6-month period. No reason to think those numbers will not keep going up with climate change.

Hawai‘i, Florida, Vermont, extreme weather events upended millions of Americans’ lives. Last month’s horrific deadly wildfires in our 50th State tragically killed at least 115 people, with hundreds more missing, projected losses of \$6 billion. Losses from Hurricane Idalia, which plowed through Florida, Georgia, parts of the Carolinas last week could reach \$20 billion. Senators Welch and Sanders sent a letter to the Ranking Member, to Senator Scott, and me ahead of this hearing, detailing the losses Vermonters have suffered from devastating floods this summer.

Higher insurance rates could hit the very homeowners, landlords, renters, who can least afford them, can hit them the hardest. So often it is the lowest-income residents we know that in disaster after disaster. It is the lowest-income residents and communities of color have been pushed into the areas that are most vulnerable to natural disasters. As weather patterns continue to change because of climate change, risk and exposure will extend to places that have not previously been prone to natural catastrophes.

This has led insurance companies to reevaluate risk-concentration levels, and not just on the coast. As the head of the Association for Property Insurers said, there is no place no place to hide from these severe natural disasters. The result has been a disturbing and abrupt trend. Companies are restricting coverage or raising rates and deductibles. In some cases, they leave States or geographic areas out entirely.

As Secretary Yellen recently noted, the result is a, quote, “protection gap” that is increasing costs and limiting options for families, and it’s increasing financial stability concerns across the financial system. U.S. reinsurance rates, the cost of insurance that insurance companies buy to protect themselves by obviously spreading out risk, have reportedly increased up 50 percent.

These jumps in reinsurance premiums have been driven in part by frequent and more severe natural disasters for themselves, for their investors. Higher reinsurance rates mean higher costs for insurance companies, which then mean price hikes passed down to consumers every month, has left millions of Americans paying more for homeowners insurance, often with less protection than before, while others scramble to find any insurance at all, because their insurance refused to renew in their policy.

In California, most recently, two major insurers, State Farm and Allstate, stopped writing new home insurance policies in the whole State. Both cited the growing risk of catastrophe and spiking reinsurance rates as factors in their decision. Not to be outdone, in Florida, since 2020, 16 severe storm and hurricanes have caused more than \$100 billion worth of damage and led to an exodus of insurers. Farmers Insurance became the fourth in Florida alone insurer to exit the market, joining Bankers Insurance and Centauri Insurance, Lexington Insurance, when it announced in July, that

it would stop writing property insurance policies in that State. One-hundred-thousand Floridians are looking for new coverage.

Days later AAA announced it would not renew some high-exposure policies in the State, despite the fact that average yearly homeowners insurance premiums in Florida cost \$6,000, the highest in the country. Fourteen insurance companies have either left the State or entered the receivership process. Insurers exiting State markets have left homeowners and businesses with no choice but to seek coverage from State-mandated insurers of last resort, which provide bare-bone policies at typically higher rates.

Insurers of last resort are obviously exactly that; they are the last resort. That used to mean these insurers had a small share of policies, but as climate exposure has increased, as especially coastal States, but everywhere have been battered, insurers of last resort are growing. In Florida, for example, Florida Citizens, the State's insurer of last resort, is now the State's single largest property insurer, 1.4 million policies.

California's insurer of last resort, the California FAIR Plan, has seen more than 100 percent increase in policies in the last 5 years, reportedly offering coverage to 300,000 policies at the end of last year.

It is not only homeowners hit by rising costs.

Shrinking coverage, the National Multifamily Housing Council reports similar issues for multifamily sector, higher rates and deductibles, coverage limitations, in some cases no viable private market insurance coverage option at all.

Because each insurance policy is a contract between the property owner and the insurer, it is harder to know when insurers have stopped writing coverage for apartments in a community or State. But apartment owners tell us that they are seeing a clear trend. Renters will only bear the burden as higher insurance costs are passed on to them in the form of even higher rents. Owners of our already too-small supply of affordable apartments serving the lowest-income renters may be increasingly left with impossible choices.

Today's witnesses understand the unique challenges facing homeowners and property managers. Ms. Norris from Columbus, the capital of my home State of Ohio, is seeing the problem of rising insurance costs firsthand across the many States where National Church Residences provide affordable homes for America's seniors. I am pleased to have all three of you here today as we explore these important topics.

Ranking Member Scott, welcome.

OPENING STATEMENT OF SENATOR TIM SCOTT

Senator SCOTT. Thank you, Mr. Chairman. Thank you all for joining us today with such an important conversation about the state of insurance with States around the country, and the important role that insurance plays in the ability for homeowners, specifically as we discussed today, to transfer the risk to an insurance company.

As you would imagine, coming from South Carolina and thinking about my friends in Georgia, Florida, and North Carolina, and thinking about the devastation of the fires in Maui, my prayers and my thoughts are certainly with those folks who have lost fam-

ily members, who have seen their lives devastated, their properties destroyed.

So much attention is given to the challenges of the environment, climate, but too often what we see, whether in Maui or other States is the man-made disaster that jeopardizes insurance in those States. I think about the fact that in my lifetime, as an adult, I spent, gosh, 20-plus years in the property and casualty insurance business. So I do have an affinity for terms that were used when I was in business. Mike, have you ever been in insurance?

Senator ROUNDS. Boy, have I.

Senator SCOTT. OK, good. Mike was also an insurance agency owner as well, and one of the things we both talked about is the PML, the Probable Maximum Loss. Can an insurance company calculate accurately, or even in the range of reality, what is the Probable Maximum Loss within a market? Whether that market is the Charleston area, where we are prone to hurricanes, or rather the State of California, or Ohio, with storms, and/or other natural disasters, can a company predict the loss that will be incurred, and can they absorb that loss based on the premiums they charge per policy? When you cannot, you do not stay in a market. It is kind of that simple.

Insurance companies have to follow the basic rules of economics, like any other business, and that is one the challenges that we see, particularly in States like California and Florida. California's over-regulated markets makes it very difficult for insurance companies to make a profit in those States, and when you cannot make a profit you do not stay in those States.

That is one the reasons why you see rather a State Farm, AIG, the insurance companies that were just named, leaving markets, because the rate sufficiency is impossible to get there. And then the inability to find the path forward, rather it is the NFIP that provides some reduction of that risk, or as I have discussed before, the absolute necessity of us to get our arms around the catastrophic occurrences from coast to coast, whether it is a hurricane, an earthquake, a flood, or tornadoes.

We have not really wrestled with the actual damages done by catastrophic occurrences across the country. If you are on the coast or, frankly, if you are in the South, whether it is Louisiana, Florida, or South Carolina, we account for half of all the premiums going into the NFIP. But when a flood happens in New York, or New Jersey, or in Ohio, the policyholders there never heard of or thought of a flood insurance policy, so they are drawing money out of an account without having put any resources in the account.

So we have some real challenges that we should identify, and understand, and appreciate that every insurance company is wrestling with today. But when you think about States like California and Florida, two things without question come to mind: one State you have a burdensome marketplace that is oppressive, that drives businesses out. It is not just insurance companies that are fleeing the State of California, every other business that can find another place to go seems to be looking for a different market. So I understand that.

Florida, part of the challenge that we see in Florida is that the regulatory environment is challenging. Certainly, the natural dis-

asters are challenging, but with only 9 percent of the policies—homeowner policies in the country—they represent about 79 percent of homeowners insurance lawsuits. Over the last decade, companies in Florida have paid out \$51 billion. However, 71 percent of that goes to attorneys' fees. Something is broken in the market where it is not the homeowner that is receiving the lion's share of the resources, it is the lawyers because of the challenges in a broken State as it relates to the litigious environment that is apparent, obvious, and clear in Florida.

So whether it is California or Florida, we need to understand holistically the challenges that these insurance companies face and why they continue to pull out of the markets. I would love to hear from the experts today solutions, opportunities to recalibrate markets, and for us to have a panoramic view of how to keep insurance companies viable in those markets because, without any question, homeowners today are desperately looking for opportunities to afford the coverage.

I think the average, as the Chairman suggested earlier, the average premium for a house is \$1,700 for homeowners; for the same policy in Florida, it is \$6,000. That is the case. It is not simply a case of rate sufficiency based on the Probable Maximum Loss of a natural disaster. It has to do with the \$51 billion paid to attorneys that have to be factored into that new definition of rate sufficiency that is going to be really hard to meet if that environment does not change.

Chair BROWN. Thank you, Senator Scott. I will introduce today's witnesses.

Doug Heller is the Director of Insurance of the Consumer Federation of America. He serves as a Member of the Treasury Department's Federal Advisory Committee on Insurance. He is a member of the California Automobile Assigned Risk Plan Advisory Board, and member of the Executive Committee of California's Coalition against Insurance Fraud. Mr. Heller, welcome.

Michelle Norris is Executive Vice President of External Affairs and Strategic Partnerships at National Church Residences, the Nation's largest provider of senior housing. She serves as Chair of the Board of Directors for Stewards of Affordable Housing for the Future, a Member of the Board of Directors of the Corporation for Supportive Housing and past President and Board Member of the National Affordable Housing Management Association. Ms. Norris, welcome.

Jerry Theodorou is the Director of the Finance, Insurance, and Trade Policy program at the R Street Institute. Prior to joining R Street, he served as Director of Insurance Research at Conning and in multiple roles in AIG, welcome. Mr. Heller, please begin. Thank you.

OPENING STATEMENT OF DOUGLAS HELLER, DIRECTOR OF INSURANCE, CONSUMER FEDERATION OF AMERICA

Mr. HELLER. Good morning, Mr. Chairman, Senators. I am Doug Heller, Director of Insurance for Consumer Federation of America.

There are several forces creating the property insurance crisis that has arrived in many parts of the country and is brewing in others. I will highlight what consumers are dealing with, the un-

derlying drivers of the crisis, and some thoughts about how Government, insurers, and property owners can work together to reduce costs, improve coverage, and build safer homes in more resilient communities.

In 2022, Americans spent about \$125 billion for home insurance. It is rising about 40 percent faster than inflation since 2017. We hear from many around the country paying upwards of \$500 per month just for their basic home insurance, add more if they need to buy a separate flood, earthquake, or windstorm policy. Not surprisingly regions exposed to the worst climate risk are being hit hard in this market, but this is a national problem. In fact, some of the highest home insurance prices are paid by residents of the Midwest, who are facing tornado and hail risk.

But the pain is not equally distributed. The neighborhoods most vulnerable to climate disasters are often home to communities of color and low-income Americans, amplifying the crisis for them. And it is not just geography targeting these communities. It is not just geography targeting these communities. In all but a few States insurers penalize homeowners if they do not have a great credit score, even if they have never filed a claim. This disproportionately harms lower-income folks, people of color, and rural Americans, adding more pressure on the premiums that are already boiling over due to climate change.

Now the second part of the crisis is the insurance companies deciding to walk away from long-served communities, and some States entirely. Since everyone with a mortgage is required to maintain coverage and because people want protection for their most valuable asset, this is an incredible scary situation. What makes people so angry though is that the insurers for years, who, of course, are the presumed experts on risk, they have told them that their neighborhood is fine and insurable, and, of course, they always collected the premiums. So for companies to just take their chips off the table without warning and walk away is unacceptable, especially after the industry resisted calls for climate risk analysis for years.

As a result, we are seeing many more people forced into the State insurance providers of last resort, which sell a high-priced policy, often with bare-bones coverage or when people cannot make their payments they end up being forced-placed into expensive coverage by their mortgage company, or—and this we are hearing more and more—people simply cannot afford to own a home because they cannot get insurance.

Now the third problem is the hollowing out of the coverage that people can afford. Rather than working in partnership with their policyholders and communities to reduce the risk of loss due to climate disasters, insurance companies are selling policies with less rebuilding benefit, more exclusions, and higher deductibles. Companies are reducing their own risk, sure. But that does not change the actual cost of disaster risk. It just transfers it back to homeowners, renters, farmers, and other consumers.

So why is this happening? There are two key drivers of the crisis. First, the reality of worsening disasters is undeniable. Tackling this requires a collaborative effort to reduce the risk that stems from climate change by investing in safer homes and buildings, and

more well-defended and resilient communities. This involves better data collection, expanded public support of infrastructure investments, and more grants for individual homeowners and building owners to harden their homes.

And when property owners invest in loss mitigation, they should be promised access to coverage and relief on their premiums. Also this discussion must include issues of property development, affordable housing, and equity as we try to adapt to climate risk. If we do not take on the larger questions then insurance companies will be the ones left in charge of land use and housing policies through their rate-making and underwriting decisions.

Now the second key driver of the current crisis is the exploding prices in the unregulated global reinsurance markets, the ones that property insurance companies use to hedge their bets. Prices are up 35 percent since January alone, if insurers can even get that reinsurance that they seek. So we need a meaningful public-private partnership to address this massive market failure.

The way forward is for the Federal Government to provide a catastrophe reinsurance backstop, just as we did with terrorism through TRIA, in exchange for insurers offering a meaningful insurance product, one without gaping holes, and one that covers all major perils. In capping insurers' climate risk this way the Federal reinsurance program would provide needed certainty to insurers on, as Senator Scott mentioned, their Probable Maximum Loss.

So to conclude, by prioritizing their own exposure to climate change rather than on reducing the actual risk of loss, insurers have left American consumers in the bind that calls us to this hearing today. Effectively addressing these problems demands a holistic approach to climate risk and property insurability. It requires a focus on strategies that will reduce the damage done by climate change, strengthen communities, and use innovative public-private partnerships to create competitive and sustainable insurance market that will yield affordable and quality property insurance coverage to Americans as we confront climate change together.

If we have opportunities during the questioning I would love to talk about Senator Scott's concerns about what is happening in California and Florida and make sure we address some of the details, but for now I will just thank the Committee for having me here, and I will conclude there.

Chair BROWN. Ms. Norris, welcome.

OPENING STATEMENT OF MICHELLE NORRIS, EXECUTIVE VICE PRESIDENT OF EXTERNAL AFFAIRS AND STRATEGIC PARTNERSHIPS, NATIONAL CHURCH RESIDENCES

Ms. NORRIS. Mr. Chairman, Ranking Member Scott, and Committee Members, I would like to thank you for this opportunity to speak about the challenges in the property insurance market and how this is impacting the multifamily sector, especially affordable housing. For over 60 years, National Church Residences has provided housing and health care to older adults. We currently provide affordable rental homes for more than 20,000 low-income seniors in 23 States.

My remarks largely today reflect those of a growing coalition of multifamily housing stakeholders, concerned by the trends in the insurance industry, and the impact that they have on affordable rental housing, and the people who live in those homes. I am proud to be associated with several of those organizations as currently mentioned, including Stewards of Affordable Housing for the Future, where I am currently serving as Board Chair, National Affordable Housing Management Association, where I chair the Regulatory Affairs Committee, and the National Multifamily Housing Council, where we are a member.

These groups, along with many other house trading associations, recently created a task force focused on finding solutions to the current insurance market challenges, so that housing providers can meet long-term housing needs for our residents. It is with this lens that I would like to share what we know about the property insurance trends and the negative impact it is having on the housing supply and affordability. Property insurance rates in the U.S. have increased for 22 consecutive quarters. In just the past 3 years, housing providers have reported annual premium increases ranging from 30 percent to 100 percent for affordable rental housing. In fact, at National Church Residences we have seen our property and casualty insurance costs go 400 percent increase in 6 years.

We are also seeing reduced coverage. Minimum deductibles on property-level policies have increased from \$10,000 to \$25,000, and up to \$100,000, which is the option we had to take this year.

In addition to the risk increase this presents, these high deductibles can conflict with financial requirements. To avoid defaulting on financing, housing providers have to take additional policies, create layered coverages, all which add cost. Even developers and owners with very large portfolios, like ours, have little bargaining power in today's industry.

The pressures created by these increases impact our residents, too. Increased insurance costs result in increased rents, in market-rate housing and in affordable housing communities. Continued rising costs may also lead to the reduction in services to our residents, deferred repairs, and threats to long-term sustainability of our communities. High insurance costs are also hindering solutions to the affordable housing crisis. Rising insurance costs mean lower net operating income to support debt or equity returns. If you cannot borrow as much, or attract less investment, it becomes even more difficult to finance the construction and preservation of the current affordable housing communities.

We are seeing the volatility of the insurance market being driven by three key issues: the unprecedented frequency of natural disasters, the impact of inflation on replacement-value methodology, and finally, on the insurance market capacity and policy limitations. Many insurers have simply ceased to underwrite multifamily casualty policies nationwide, or in certain markets prone to natural disasters like the Gulf Coast States of Florida and Louisiana.

I have detailed more information in my written testimony, but my message is this: We must act now. Our country has a shortage now of 7.3 million homes affordable to low-income people. We cannot afford to jeopardize existing rental housing or slow the creation of new ones. Both short-term and long-term policy solutions are

needed. In the short term, HUD and other Federal agencies can provide funding for affordable rental homes they must rethink existing insurance requirements and provide increased flexibility and funding to property owners to account for the real-world challenge that we are facing. In the long term, investments in climate resilience and the greater level of intervention by the Federal Government in the insurance markets are necessary given the current market failures.

Thank you for the opportunity to speak today and for your efforts to explore and address these significant insurance challenges. We stand ready to work with you to further these efforts. Thank you.

Chair BROWN. Thank you, Ms. Norris.

Mr. Theodorou, welcome.

OPENING STATEMENT OF JERRY THEODOROU, POLICY DIRECTOR, FINANCE, INSURANCE AND TRADE, THE R STREET INSTITUTE

Mr. THEODOROU. Chairman Brown, Ranking Member Scott, Members of the Committee, thank you for holding today's hearing and for the invitation to testify.

Today's hearing is timely. Consumers in States with ailing insurance markets struggle to secure homeowners insurance within budget. Availability and affordability concerns are particularly acute in California and Florida. Symptoms of the ailment include insurer insolvencies, insurers ceasing to do business or pausing new business, rising premiums, large natural disasters, Hilary, Idalia. First and foremost, it is a miracle no lives were lost from Hilary or Idalia; let us be grateful for that. California's and Florida's insurance markets are not all gloom and doom.

Before we get to the good news, let us take the temperature of the broader market. Some maintain that insurance industry capital has been depleted. That is not so. In 2022, the primary insurance industry had a slight underwriting loss. For every \$1 in premium that it took in, it paid out \$1.02 and seven mills in losses and experiences. Investment income offset the underwriting loss, contributing to a positive 4 percent return.

According to economist Thomas Sowell, competition does a much more effective job than Government at protecting consumers. The insurance industry, with over 260,000 insurers is highly competitive. Chairman Brown, Ranking Member Scott, Ohio and South Carolina are among the most competitive States for insurance, especially South Carolina. It is number four, so somebody is doing something right there.

Senator SCOTT. I agree.

Mr. THEODOROU. States' residual markets are another window into insurance competitiveness. Residual markets are State-mandated insurers of last resort when insurance is unavailable in the standard market. California's and Florida's large residual markets are unhealthy symptoms.

Insurance markets and loss exposures vary across States. Maine is the least catastrophe-prone, whereas, California is exposed to earthquake, wildfire, mudslide, atmospheric rivers, even typhoons. One would expect property insurance premiums in California to be higher than in less catastrophe-prone States, but they are not.

Homeowners insurance and premiums in Tennessee and South Dakota are about equivalent to California's, even though California's risk and building and repair costs are higher.

California's insurance market troubles go back to Proposition 103 in 1988. Proposition 103 made California the only State to introduce public interveners, who can challenge rate increase requests above 7 percent. This requires the regulator to address insurance rate change requests to request within 60 days, but the reality is that the 60-day rule must be waived before action is taken by the regulator, resulting in delays of a year or much more.

This straitjacketing prevents insurers from charging risk-adjusted rates. The result is close to 20 insurers pausing new business or non-renewing policies. Proposition 103 is a form of price control. The academic literature finds that price controls do not work and California demonstrates this.

More ways that California insurance regulator handicaps insurers is by prohibiting insurers from factoring reinsurance costs and recent climate patterns into risk modeling. This is like forbidding a doughnut-maker to change the price of its doughnuts, irrespective of flour and sugar costs.

In contrast to California's price control, Florida's market troubles were driven primarily by excessive litigation, as we have just heard. For years, Florida had the dubious distinction of being home to 79 percent of the homeowner insurance litigation in the country, despite having only 9 percent of the country's homeowner insurance policies.

So what is the good news? In the spring, the California Assembly and Senate held productive bipartisan information hearings on climate models, and in Florida, comprehensive tort reform was signed into law. What is more, several new companies with fresh capital have announced entering Florida, one just yesterday. Going forward, California's auspicious tailwinds of change should continue, and Florida should maintain its resolve and put its history of lawsuit abuse in the rearview mirror.

On that happy note, thank you for holding today's hearing. Thank you for your consideration of my views. I look forward to your questions.

Chair BROWN. Thank you, Mr. Theodorou. It is always good to end on a happy note. Thank you for that.

Mr. Heller, you cannot open a newspaper without seeing stories of homeowners facing skyrocketing insurance rates with less coverage, higher deductibles, or not being able to find an insurer. Despite what some say, it is not happening, of course, only in California. Why are so many people across the country—and answer this as short as you can—why are so many people across the country suddenly being priced out of the homeowners insurance market?

Mr. HELLER. Thank you, Senator Brown. The first reason—I mean there is a few reasons, but the first reason we have to acknowledge it up front is climate change is severely exacerbating the cost of risk transfer because it is increasing the severity and frequency of disasters. You mentioned an example, 15 \$1 billion events this year alone. The Swiss Re actually reported that the most severe incidents were in Texas. We talk about California and

Florida. This is happening around the country. Climate change, as you said, is a national concern, and it is affecting insurance markets everywhere.

The unregulated global reinsurance market is number two and is the driver here. These drastically increased premiums over the past 2 years actually put the rate online index produced by Marsh McLennan's Guy Carpenter subsidiary at the highest in the history of the index, which has been calculated since 1990. So that risk transfer is also too expensive.

There has been inadequate oversight of State insurance markets around the country and some terrible rules that require some of the big State public insurers of last resort, the citizens in Florida and Louisiana, to actually charge customers more than the actuarially indicated rate. That makes no sense. Why are we making last resort insurers charge more than they need to charge to provide coverage?

And then finally, I mentioned there is the specific pain point for lower-income Americans, who because they do not have great credit, find themselves seeing 40 percent, 60 percent, 80 percent premium spikes just because of that even without a claim. So it is a confluence of these incredibly difficult issues.

Senator BROWN. Thank you, Mr. Heller. I hope we can get agreement and at least acknowledgment from everybody on this Committee of both parties on the existence of climate change and the severity and the huge costs in so many ways to all of us. Thank you.

Ms. Norris, we have heard arguments that consumer protections at the State-level lead insurers to stop writing homeowners insurance policies in certain States, but the insurance multifamily property owners buy usually does not have the kind of protections, as you know, and the oversight that a homeowners insurance policy would. How is the coverage multifamily policies include different from the coverage a homeowner would buy, number one? And second, are you seeing fewer insurers offering multifamily coverage across the country?

Ms. NORRIS. Thank you, Senator Brown. First I would like to highlight what was already mentioned about just the impact of climate change, to your point. As an example, National Church Residences, our three highest claims we have had in our history have happened in the last 2 years. One was from Hurricane Ida in August of 2021, \$6.5 million for our organization; Hurricane Ian, which hit a single property in Florida, and required us to vacate the property for 6 months and rebuild at \$13 million; and Winter Storm Elliot, which hit 44 of our communities. It is a really challenging time to be providing affordable housing.

And so we see, in the insurance market, our insurance is covered at a national level, so we work with carriers that go across State lines. But we are, in fact, seeing fewer and fewer options available for us. In fact, in our previous renewal, we had four carriers that worked with us on real property and casualty, three of those walked away and left us with a single carrier, and basically a take-it-or-leave-it on the premiums.

Senator BROWN. Thank you.

Mr. Heller, I wanted to thank you for raising concerns around nonprofits having difficulty finding affordable property insurance coverage. I appreciated that in your testimony. I have long raised similar concerns, including at last year's insurance hearing, and I am hoping that we can find a resolution to that. So thank you for that.

Mr. Heller, you noted that raising insurance rates, reducing coverage, do not reduce risk. It reduces risk for the insurer, who shifts it onto the homeowner. What can we do to actually reduce risks so that we can bring down costs and make homeowners' and renters' properties safer?

Mr. HELLER. Thank you, Mr. Chairman. There are really several things. We are doing, in some ways, a lot of this work with the Building Resilient Infrastructure Communities, the BRIC Program at FEMA. There is some new data that was just released about where we need to invest most aggressively to provide the most return on those infrastructure investments around 500 different census tracts in the country.

So we need to take the front end of the solution as serious as we have historically taken the back end by having FEMA emergency funds after a disaster. That is what we really need to be doing is putting our money up front.

And I will tell you one thing we have that can be done very simply. Senator Feinstein and Representative LaMalfa have bills that would make grants to homeowners tax-free for home-hardening. That is something we could easily do.

I know in California, the Earthquake Authority wants to be giving money out to people to strengthen their homes, but people are going to bear the tax burden of that. So that money is not free and it is not going to help them rebuild. So we need to make those investments on the front end. If we protect homes with \$1, we do not have to rebuild with emergency funds with \$5, \$6, \$7 after the fact.

Senator BROWN. Thank you. My time has expired.

Ms. Norris, I wanted to just offer this Committee's help knowing it can be difficult for nonprofit operators to access resources for mitigation in ways that we can creatively work together. Senator Scott.

Senator SCOTT. Thank you, Mr. Chairman. Mr. Theodorou, you said something earlier that I wanted to make sure I understood. If a company brings in \$1 in premium, but pays out \$1.02 in losses, that is probably a bad thing.

Mr. THEODOROU. That is right. That is right.

Senator SCOTT. So the only way that you make that up is by the ROI on your investment between the time that you bring it in and the time you pay it out, you have an opportunity to invest those resources. If you invest them effectively in a good market then you will have enough to stay afloat, and if you do not have a good market, like today's market, where you have a 17 percent inflationary impact on companies, business, on gas, and all of the supplies it makes it more difficult to get that kind of ROI.

Mr. THEODOROU. That is right, especially following the low and long period of interest rates, when investment income was lower. So the contribution from investment income was depressed and did

not contribute enough to bring the combined ratio below 100 percent.

Senator SCOTT. Correct. Number two, repetitive losses. We just heard about rebuilding, rebuilding, rebuilding the National Flood Insurance Program. One percent of losses that occur are repetitive losses, but they account for about 30 percent of the payouts of the National Flood Insurance Program. So if you keep building in the same area, where there is a disaster after disaster after disaster, the chances are pretty good you are going to pay more out.

Mr. THEODOROU. That is right. That is right. There needs to be incentives for better behavior for the National Flood Insurance Program, and now they are trying to disincentivize these repetitive and severely repetitive loss properties by having a 25 percent increase if you have these repeated events. So send the right signals and people will respond by hardening, by taking preventative measures, by increasing resiliency.

Senator SCOTT. Perhaps sometimes the Federal Government is not really the answer to what local communities need to do in making decisions around whether or not to rebuild a property in a place where you have had multiple losses to the same property based on the same basic set of circumstances that come through a community.

Mr. THEODOROU. That is right. The Federal Government has not had a good history of involvement in insurance. You mentioned the National Flood Insurance Program, which has bled billion, tens of billions of red ink. The crop insurance program also has these subsidies that do not encourage farming of the right crops and in the right areas.

The insurance industry, as you know, and Senator Rounds, is tremendously complex. Simple in principle, but in the execution there is administration and policy issuance, distribution, actuarial, and a dozen other functions, and the Federal Government has no business trying to create insurance companies. It is simply not feasible.

Senate Scott. Perhaps one of the reasons why we should all thank the good Lord for the McCarran-Ferguson Act of 1945 that made our form of insurance a State-based system of insurance, this structure has produced highly competitive, fair markets all across this country, and frankly, sets a global standard. Is that an accurate statement?

Mr. THEODOROU. That is right, and efforts in the past that have followed strains in the insurance market to create a Federal backstop, or to provide Government-subsidized reinsurance, have not been successful. They have not taken off, because it is simply not feasible.

In 2007, a couple of years after Hurricane Katrina, KRW, Katrina/Rita/Wilma, Chris Dodd held a similar hearing and Chairman of the Economic CEA, Ed Lazear, talked about the ways in which that would not be feasible. Congressman Moskowitz, Charlie Crist, Governor in Florida, and there was a Kevin Mahoney bill, a number of bills have been introduced as sort of knee-jerk reactions. Oh, the insurance industry is having strains, let us send the Federal Government in to fix it. It does not have a history of working then and it will not have one now.

Senator SCOTT. Sounds like to me you have already answered my first question, which is about the fact that Federal taxpayers subsidizing State insurance challenges is not a recipe for long-term success.

Mr. THEODOROU. That is right. Subsidies and cross-subsidies where the poor subsidize the rich are both bad.

Senator SCOTT. Simple, sounds like to me. Could you speak to why the insurance markets operate at a lag behind the rest of the economy, and why we are seeing increased prices now? One of the questions I am really trying to narrow in on the important fact that over the last couple of years seeing the inflationary impact that we talked about that led to 12 rate increases. So that new market where you have 5.25 percent or higher interest rates to be imbedded into an insurance company's model, that costs something.

Mr. THEODOROU. That is right. It does take a couple of years before it earns in, because as we have seen with inflation, building material costs rose by 19 percent in 2021, 8 percent in 2022. Copper prices, other prices of lumber and metal that is needed in rebuilding homes have gone up. But it takes time because the loss may happen toward the end of the policy period, and then for the repairs are more expensive than before. So it takes 1 or 2 years before those inflationary impacts are fed in.

So there are three main drivers of some of the strains: economic inflation, reinsurance costs, and natural catastrophes. I am glad you brought up the inflationary factor.

Senator SCOTT. Thank you, sir.

Chair BROWN. Thank you, Senator Scott.

Senator Reed, of Rhode Island, is recognized.

Senator REED. Thank you very much, Mr. Chairman. Mr. Heller, if Congress does not act by September 30th, the National Flood Insurance Program does not exist. Can you tell us what the consequences of that will be, please.

Mr. HELLER. Thank you, Senator. Yeah, I mean, Americans right now are facing these unprecedented catastrophes. We just saw Pennsylvania, New York, Vermont hit by severe flooding, and we need to have a flood insurance, and the private market has not been there to provide insurance for homeowners, and it has been stripped out of the homeowners' policies. So we need a backstop, so that there is flood insurance. I will say only 12 percent of Americans actually buy flood insurance. We are desperately uninsured or underinsured for this coverage.

I think it is important to note that Senator Scott is right, that the flood insurance program as created has not been a success. We need it there, because if we do not have it, then we have got nothing. But one the reasons that a Federal reinsurance program would be so valuable, like we did with TRIA when we had this desperate exposure, by bringing in a Federal reinsurance we could put the flood insurance product back into homeowners insurance, back into the State, back into the private markets, which I think is exactly what Senator Scott was calling for. Because then the private insurers could be protected when they sell flood insurance, knowing that the worst-case scenario was taken off the—they were taken off the hook.

But until we do that, until we push flood insurance out of the Federal Government and back into the homeowners policies that we all buy, we need to have a flood insurance program here in the Federal Government.

Senator REED. Thank you. There is also another approach, which would be mitigation. I know in my State we are working with the Natural Resources Conservation Service, which is under the United States Department of Agriculture, and we are actually buying homes in areas that are flood-prone. We are restoring floodplains so that there is a nature dissipation of floodwaters, we are working with the Corps of Engineers. So my conclusion is we probably should do a lot more preemptive work with respect to resilience.

Mr. HELLER. And Senator Reed you are exactly right. Our first, second, and third thing that we should be doing is reducing the risk. We have got the knowledge and data, and whether with floods, as you are talking about or windstorms and fires we know how important better roofing is. This stuff can be done, but we have to make the commitment to it, rather than just shifting the deck chairs on the Titanic by saying, well, insurance companies are not going to take that risk. Higher deductibles, less coverage, homeowners, renters and property owners, they take the risk instead.

Senator REED. There is discussion, obviously, of withdrawal of many insurance companies in Rhode Island. Our State insurance regulator implemented a rule that requires notification by the insurance company prior to their departure, and that gives the State the opportunity to work with the company to see if there are ways to diversify or do other things that could compensate. Is that an approach that is worth emulating elsewhere?

Mr. HELLER. Yes. I think that is exactly right, and what you are doing in Rhode Island makes a lot of sense. We hear from homeowners all the time, "Why am I suddenly being told I cannot be insured? They have always insured me." And the point is that we need to have a transition process. Insurance companies cannot take a money for decades and decades and say, oh, now we realize there is climate change, we are out of here. So it is really important that you have a transition process like you are talking about.

Senator REED. Thank you very much. Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Reed.

Senator Rounds, of South Dakota, is recognized.

Senator ROUNDS. Thank you, Mr. Chairman. Thank you to all of you for coming before us today.

Mr. Theodorou, I am curious. How long have you studied or participated in the insurance market reviews?

Mr. THEODOROU. I have been an analyst of the property casualty insurance industry for 15 years, 12 years at Conning, an insurance research and asset management firm in Hartford, and for the last 3 years leading the insurance research at R Street. Prior to that I was in the industry. I worked in the industry as an underwriter and in other capacities.

Senator ROUNDS. Just curious. I was first licensed to sell insurance as an agent in South Dakota in 1978, for homeowners insurance, and carried that license all the way up until 2015, when I was elected to the U.S. Senate. Just curious. During that time pe-

riod you learn what is in a policy and what is not in a policy. Under a homeowners policy there was an old HO2 form, and it was transferred into an HO3 form where you had named perils, and then you had special all-risk coverage with exceptions built in.

But I was trying to think back. I do not believe I have ever seen a homeowners policy, which was available with a flood insurance as part of the original perils. Are you aware of a flood insurance, or homeowners policy that started out under the basic forms, with flood insurance?

Mr. THEODOROU. No, no. Flood has been excluded for several decades, prior to the 1970s, when you began. The HO3, which is the most common form—

Senator ROUNDS. Special form.

Mr. THEODOROU.—special form, excludes flood. The flood insurance program, National Flood Insurance Program has been the principal provider of flood insurance.

The good news is that the private market is growing. I will bring some good news in here. Now there are 77 private companies that are writing 31 percent of flood insurance business compared to 12.6 percent just a few years ago. So the private market is starting to come in, especially since the new rating methodology has been introduced.

Senator ROUNDS. I think also right now we have an NFIP, the National Flood Insurance Program, which is a backstop for flood insurance across the country, and personally I think it is important that we get it renewed. I think it is an important aspect for a lot of areas, particularly where the risk is high. But the vast majority of Americans, they simply look at their policy and say, “I do not need flood insurance program because I am not in a flood insurance—in an area which prone to floods.” So they do not buy it, or their mortgagee does not require them to buy it. So what you end up with is, in many cases, the folks who may buy it are people that think they may have a loss or are being required because the Federal Government believes they may be in a flood program or in a flood zone. Correct?

Mr. THEODOROU. That is right, and that leads to two problems. One, you have adverse selection, which means the policies that are written are the ones with the perceived highest risk—they are next to a river, creek or on the coast—and you have low penetration. There are 70 million homes in the United States, and only 5 million carry flood insurance, and it is estimated that over 80 percent of the homes in the United States are exposed to flood. As we have seen the last couple of years, we have these atmospheric rivers, these rainstorms that are horrific and violent that are removed from bodies of water. So the flood exposure is there, the market is underpenetrated, and there is adverse selection.

Senator ROUNDS. We represented dozens of insurance companies that wrote homeowners in the agencies that I had an ownership interest in, in South Dakota. I found they either wanted to be in the market and they wanted to be writing a lot of insurance coverages. They did not want to write one or two, but wanted to write lots because they made a profit if they had a larger part of the market itself. The vast majority of insurance carriers would love to write

for a particular line of coverage if they thought they could make a profit. Fair enough?

Mr. THEODOROU. That is absolutely right. The exodus from California, as Ranking Member Scott said, the Law of Economics. If you are losing money, there is no reason to go on doing that.

Senator ROUNDS. So in this particular case, if we recognize that there are certain areas around the country where carriers have simply said, "Look, we cannot make a profit there, we are on our way out," mitigating circumstances, climate change is part of it, being able to appropriately increase your rates for the risk of some of those severe weather events. If they are not able to increase rates based upon that, then they simply look at it and say, "We are a for-profit organization. We cannot make a profit."

But there seems to be a movement out there still, where people think that we should spread that out to taxpayers to pick up those losses and keep the rates low. Is that a fair assessment of what some folks think is a better alternative?

Mr. THEODOROU. Yeah, that would socialize the risk and penalize people unnecessarily and allow people that have got higher risk to go on having that higher risk.

Senator ROUNDS. Thank you. Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Rounds.

Senator Menendez, of New Jersey, is recognized.

Senator MENENDEZ. Thank you. Mr. Theodorou, what happens, though, when the private market makes an amount for insurance that is almost unfeasible to be able for the homeowner to afford? They choose not to have property flooding insurance, and the consequences of that when we have the storms or the wildfires or the flooding that ends up the Federal Government comes in and helps the State. Is not it better to have a system that is somewhat insured here?

Mr. THEODOROU. The affordability/unaffordability issue can be dealt with with means testing. If there is real unaffordability and the home cannot be move or cannot harden the home, then there can be some form of means testing. The good news is that with the new rating methodology 20 percent of policies have seen a decrease in the premium that they have.

Senator MENENDEZ. And the largest number of people have left the National Flood Insurance Program as a result of Risk Rating 2.0.

Let me just ask this. Decades of inaction, particularly on climate change, is causing the property and casualty insurance market to buckle under competing pressures to provide returns for shareholders and sell a product that policyholders can actually afford, and as businesses insurers have an obligation to their shareholders to make a profit. I get that.

But as policymakers, we have an obligation to correct for market failures when there is a compelling public policy reason to do so, and here it is to ensure families can afford necessary coverage and prevent collapses in our local housing markets. Because between wildfire, droughts, and flooding, the reality is that there is nowhere left in the country that is not being challenged by natural disaster.

Ms. Norris, in my State you have senior communities in Brick, South River, and Elizabeth, just to mention some, that are histori-

cally challenged with flooding. By the way, those communities are not wealthy by any stretch of the imagination. What would it mean for costs for seniors if homeowners, in terms of flood insurance, becomes unavailable, and flood insurance becomes prohibitively expensive?

Ms. NORRIS. Thank you, Senator, for the question. And I assume you are talking about in our multifamily communities, our affordable housing communities that we have in your State. Correct.

Senator MENENDEZ. Yes.

Ms. NORRIS. So in New Jersey, along with all our other communities in other States, where we provide affordable housing, the idea of us as the owner being able to not be insured puts a tremendous risk not only on us, but on our residents as well. At some point, if we were not able to get insurance, then it would leave our building and our residents completely exposed. As I mentioned earlier, we have had our highest three claims have happened in the last 2 years. If we did not have insurance, those apartments would have been completely unable to be reoccupied.

Senator MENENDEZ. So people would be out?

Ms. NORRIS. Right. As a matter of fact, at one of our communities, they were out for 6 months while we rebuilt. Without insurance we would not have been rebuilt, and they would have been just left to find their own homes.

Senator MENENDEZ. Senior communities, like the ones you are talking about, are part of the reason why I introduced this bipartisan NFIP-RE Act. The legislation would ensure flood rates stay affordable while providing generational investments in mitigation and risk-mapping to tackle long-term challenges of flooding.

Nearly 11 years ago, we in New Jersey faced the worst natural disaster in our State's history. Superstorm Sandy destroyed homes, shuttered businesses, flooded entire communities. But in the months and years following Hurricane Sandy, New Jerseyans faced a manmade disaster in getting an honest claims check for their flood insurance policy. These are people who paid a lifetime, never made a claim, and all of a sudden now, when they are making a claim, through the manipulation of engineering reports and utilizing obscure loopholes, insurance companies acting as contractors for FEMA systematically low-balled policyholders.

I subsequently led a charge for FEMA to establish the Sandy Claims Review, which resulted in \$260 million more paid out to families that were previously denied. But it seems to me that an old dog does not seem to learn new tricks.

Mr. Heller, what are you seeing in Florida for homeowner insurance policyholders in the aftermath of Ian?

Mr. HELLER. Thank you, Senator. It has been terrible for so many homeowners after Ian. I mean we have seen the evidence now of insurance companies that were literally changing their own adjustor's claims values.

This is just a straight fraud from insurance companies, and we need to, sure, prosecute those fraudsters, those insurance companies that are cheating people, but how we are not learning that lesson, how regulators are not coming in in real time and taking the data to figure this out is leaving homeowners exposed after they have paid their premiums for years, these escalating premiums,

and then when they need the companies most, the companies turn their backs on them, or even cheat them.

Senator MENENDEZ. My legislation stops the bad actors from taking place, roots out what took place in Sandy so it does not happen in the Nation.

One final question, Mr. Chairman. Mr. Heller, does the NFIP have a regulator that they have to submit rate changes to?

Mr. HELLER. So the NFIP goes through its process, but what we have seen is, we have seen sort of 2.0 with these massive rate increases for a lot of people. It is really quite frustrating. We need to be making sure that rates that come out of NFIP are fair and are distributed fairly. I do actually appreciate the idea of means testing to make affordable rates, but we have not seen an appropriate—we have seen real problems at the NFIP.

Senator MENENDEZ. We have lost 150,000 policyholders, and by their own admission FEMA says we will lose a million policyholders by the end of the decade due to the premium increases. That is not a way to solidify an insurance program. Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Menendez.

Senator Tillis, of North Carolina, is recognized.

Senator TILLIS. Thank you, Mr. Chairman. I seek unanimous consent to submit one opinion piece and one article related to some of the root causes of California's and Florida's problems.

Chair BROWN. Without objection, so ordered.

Senator TILLIS. One of those was actually coauthored by Mr. Theodorou.

Mr. Theodorou, I want to go back to I think a very important number that Senator Scott touched on that said for every \$1 premium taken in you paid out \$1.02. Is that correct?

Mr. THEODOROU. That is right.

Senator TILLIS. OK. So for the premiums that they judged were necessary to cover their risk they were off by two cents on the dollar that year, right?

Mr. THEODOROU. That is right.

Senator TILLIS. And fortunately, they have a hedging strategy, where they have investments that hopefully have a return to make up those losses. So would it be fair for anybody to say that the insurers who are paying out more than they are taking in in premiums are making money hand over fist, and greedy, based on the data?

Mr. THEODOROU. The data says they are not. In 2022, there was a 4 percent margin, profit margin, because investment income kicked in about 600 basis points, and long term, the insurance industry has got a return of 6.5 percent. Companies that are publicly traded have about 14 to 15 percent. So the insurance industry has a much smaller margin than other industries.

Senator TILLIS. A part of what we could be doing here is considering national policy that is trying to address some of the shortcomings, and in my opinion exist as past policy that has been passed. In States like California, you mentioned Prop. 103. You took a look. They are addressing some of the problems in Florida through tort reform. I am glad they got on board. We did that 10 years ago in North Carolina.

But there seems to be a suggestion here that we just do not have enough regulations in place at the State or Federal level to fix this problem. Do you actually think there are glaring gaps in additional regulatory measures that we should take to fix this problem?

Mr. THEODOROU. No, I do not. I think that the push to establish some sort of, or introduce some sort of Federal backstop or support, however well-intentioned, would backfire, because contrary to popular opinion the reinsurance market and the primary insurance industry is not on its knees. It is not collapsing. It is in the business of dealing with catastrophes.

There are cycles in the business. Inflation and interest rates are factors beyond its control. But in the mutual insurance industry there are companies that have been doing business for 200 years. You cannot be greedy for 200 years and not lose all your business. So they are doing something right, and they have been through storms before.

Senator TILLIS. Do you think there are many corporate board rooms that have a strategy on shrinking their market size as a part of their growth strategy?

Mr. THEODOROU. Only in States where they cannot make a dollar.

Senator TILLIS. Right. So the point is why on earth would a major insurer exit California and Florida? Because they cannot make the numbers work, they cannot sustain and we know why.

So I think a part what we have to examine here to the extent that the Federal Government should get in is to examine the policy decisions made at the State level that are creating these structural problems, that cause insurers to exit markets. I mean, I do not know how we actually get and address—you listed off, Ms. Norris, three key areas that need to be addressed. We need to address all of them.

I just do not think that we accomplish that through some sort of a centralized, more burdensome regulatory construct coming out of Washington. I think there is a way to fix this problem, and I do not think it is with a big Federal Government solution to the problem. I think it is working through the root causes and looking—I mean you could draw a nexus between policy decisions made and why you have exited the market.

I do like what you have said about affordability. Mr. Heller mentioned affordability. I think that we should find—we do have people who are seeking insurance, that they prefer not to be on that property anymore. We failed with FEMA. We failed with resiliency measures. We failed with movement.

We have had 53 tropical cyclones impact North Carolina over the last 20 years. We average landfall of a major storm in North Carolina every 4 years. I have been dealing with this for the 16 years that I have been in elected office. But I do not believe that the mindset that some of my colleagues have here is that it can be fixed in Washington.

It needs to be addressed on a State-by-State basis. We have to provide a backstop for flood insurance. We have to address these problems. But it is not going to come from compelling a private sector business to serve a market that cannot be sustained with all the constraints that they have on rating for the risk.

I did have one final question, and Mr. Heller, I just want to confirm what you said, and then Mr. Theodorou, I would like to get your opinion. You said that credit risk rating alone could increase a premium by as much as 80 percent?

Mr. THEODOROU. Yes, sir. We see premiums actually jump for people with low credit, but no claims history, personal credit history up by as much as 100 percent, sometimes doubling of their premium, just because—

Senator TILLIS. So Mr. Theodorou, could you explain to me why you believe a part of the actuarial process should include a credit risk rating?

Mr. THEODOROU. The credit score, insurance adjusted credit score, has found to be correlated with losses. The industry though, I think, or from what I know and from my experience as an underwriter, does not overprice policies because of credit scores. If it did, competitive forces would come in and—

Senator TILLIS. Right.

Mr. THEODOROU. —issue a policy.

Senator TILLIS. If it was not relatively correlated to the risk, it would not be a factor in the actuarial process.

Mr. THEODOROU. Mm-hmm.

Senator TILLIS. OK. Thank you all for your testimony.

Chair BROWN. Thank you, Senator Tillis.

Senator FETTERMAN, of Pennsylvania, is recognized.

Senator FETTERMAN. Thank you very much, Mr. Chairman. Hi. Thank you. Mr. Heller, can you walk by me what might happen when, in Pennsylvania, a working family cannot get insurance coverage?

Mr. HELLER. Thank you, Senator Fetterman. Well, what happens is people cannot have their home. I mean they cannot own their home, or if they are a renter, they do not have the protection they need if disaster strikes. They often times do not have a place to go. They do not have coverage for loss of use if a building comes down.

But what we are seeing for some people who cannot make their premiums, homeowners who cannot make their premiums, they are being actually force-placed into a policy by their mortgage company, where their mortgage rate will go up, their monthly mortgage rate to buy the coverage for the lender, but that actually provides no coverage for them.

So we see people who cannot afford their coverage ending up paying for the insurance for the mortgage company anyway, but they have no protection afterward. So one way or the other either you are uninsured and losing your home, or you are force-placed into a coverage that does not protect you, or do not have the coverage as a renter for what you need when disaster strikes.

This has a financial downstream effect that, of course, is catastrophic for the individual families after a disaster strikes, whether it is a home fire or a flood or a windstorm.

Senator FETTERMAN. You know, is there ever a good reason to penalize new buildings solely based on their ZIP code?

Mr. HELLER. No. You know, this is one of the problems. We have the history of redlining in America has been such a troubling one, and we see it in the home insurance market, as we saw it in the homeowners' market dating back to the 1930s. When we have peo-

ple who build safe homes and safe buildings, wherever they are, we should give them the credit for that, give the insurance to them so we can encourage that kind of production. We want to talk about getting away from dangerous risk zones, from high risk due to climate disasters.

When people try to build in communities that because of ZIP code and redlining history cannot get insurance, then we are giving people no options, especially for affordable housing, and makes no sense to have this high influence of ZIP codes on the home insurance price. It is just devastating.

Senator FETTERMAN. What is the financial benefit of proactive land use planning?

Mr. HELLER. Well, it means lowering the cost of risk, and that means lowering the cost of insurance. It means safer homes and safer communities. Pennsylvania has done a lot of work in investing in that front end. Either we protect homes and communities before disaster strikes, or we are rebuilding with taxpayer costs afterwards. So the protection is not only good for the communities and families, it also means that the insurance companies have less risk to bear, which means they can charge lower premiums.

Senator FETTERMAN. And I cede my balance back to the Chair.

Chair BROWN. Thank you, Senator Fetterman.

Senator Kennedy—I am sorry, Senator Vance is recognized, from Ohio.

Senator VANCE. Thank you, Mr. Chair. Welcome to the folks testifying before the Committee. We appreciate your time, and I especially want to have a welcome for Ms. Norris, a graduate of Miami University in my neck of the woods in the State of Ohio. I appreciate you all being here.

I want to focus on the California model and whether there is something fundamentally broken about the way that California regulates its insurance market. If you sort of step back and we all agree we want people to be able to afford home insurance and whatever the station in life and however much money they make, there are two ways to do that. One to help lower-income people afford insurance in a market that is reasonably regulated and actually operates effectively. Another option is to try to regulate the market, such that it can actually function properly, and so it does not provide the benefits that insurance is supposed to provide. I am worried that California has gone that pathway and we risk learning the wrong lesson.

So I want to direct my questions first to Mr. Theodorou. Thank you for being here, Mr. Theodorou.

Mr. THEODOROU. That is right.

Senator VANCE. Sorry about that. Could you maybe just explain Prop. 103, what it changed about insurance regulation in the State of California?

Mr. THEODOROU. Sure. In 1988, Proposition 103 ballot proposal was passed by a slim margin in California, and it gave a 20 percent rebate to automobile insurers. It introduced the intervenor process where parties could argue for rate decreases. It established a Deemer Provision, which indicated that the Insurance Department would respond within 60 days, something that has not happened. So those are the three main things, and prior approval of rates.

Senator VANCE. Yep. So am I right that the regulatory regime that has sort of came out of Prop. 103 is very backwards focused? In other words, insurers are focused on accidental loss, casualty loss and so forth, that has happened in the past and what they used to set insurance rates, as opposed to forward modeling for future risk.

Mr. THEODOROU. Yes, those were two statutes that were introduced, one that prevents them from using the recent experience of catastrophes the last 6 years, and there is another statute that prevents the use of incorporating reinsurance costs. Reinsurance is part of the cost of an insurance company.

Senator VANCE. Yes.

Mr. THEODOROU. There are two other provisions in California Statute, which are in addition to the Prop. 103.

Senator VANCE. Great. Thank you.

Mr. Heller, I want to direct this question to you, and it sounds like you want to say something. Feel free to do so as long as we have the time. One of the arguments that I have heard is that the reason that insurance rates are so high in California is because of the threat of climate change, which, of course, places that are closer to the oceans theoretically are going to be more at risk to climate-related disasters.

I guess my question here is how can we credibly argue that climate risk is what is driving California's insurance market, when they are more backwards looking than forward looking? Of course, the risk to climate change is in the future, not in the past. And second, you know, you see all types of casualty insurance rates going up. So it is one thing to say property insurance goes up in response to climate risk. It is a little bit harder for me to swallow the idea that auto insurance would go up in response to climate risk, and, yet that is exactly what we see in California.

Mr. HELLER. Thank you, Senator Vance. I am a Californian. I have been working in the California insurance market for over 25 years, so I appreciate the opportunity to focus in.

I would just like to start by just noting there has been real misinformation here, because from 2019 to the present, California—and I really want you to hear this, because it is very important—California has been one of the most profitable homeowners insurance markets in the Nation, vastly more profitable than the country as a whole.

So when we say that companies are leaving, they are not leaving but they are kind of cutting back on their business, but it is not because they have not been able to make the return that they have asked for. They have actually done better in California, and since 2021, they have received 95 percent of the rate increases that they requested in the regulatory system that does work, but also allows public input. And that has been so critical.

Senator VANCE. Is that profitability, Mr. Heller, because they have effectively left the riskiest markets and focused on the most profitable market?

Mr. HELLER. No. That is profitability because California has given them the rate they need, and California has invested over \$2 billion in wildfire prevention, and we have done the work in California, and used the regulatory protections for consumers to ensure

that prices were escalating as they needed to be, but also maintaining the protections that you mentioned.

So I wanted to answer the other question, which is the pass-through of reinsurance costs, where we talked about the fact that reinsurance markets are right now escalating to the highest point they have been in over 30 years. And California does allow insurance companies—there was no statute that prevents them from buying reinsurance—they cannot pass through the excess above what is actuarially indicated onto consumers.

Now in States that do allow the pass-through, States like, Florida, Louisiana, Colorado, the insurance premiums are much higher than California, but they are also seeing withdrawals from the market. They are also seeing companies underwriting out certain communities. The pass-through of reinsurance allows the insurance companies to be free from that exorbitant international unregulated market, but it does not protect consumers from withdrawals. That is happening everywhere, irrespective of this pass-through.

Senator VANCE. Mr. Chair, I know we are running low on time, but could you just address the climate question, specifically in relationship to auto versus property insurance rates.

Mr. HELLER. So climate does impact auto to a degree, obviously, on the comprehensive policies, but that is—

Senator VANCE. That is only a portion.

Mr. HELLER. Yeah. So first of all, I disagree with the fundamental point you said about climate being coastal. The derechos going through the Midwest are linked to climate change, and that is driving some of the highest rates. I mean, climate change is hitting everywhere, so I do not want to misstate it as a coastal issue around the country. It is really a national issue.

Senator VANCE. Sure. But we all agree California is probably more at risk from climate disasters than the State of Ohio as an Ohioan.

Mr. HELLER. Ohio is a great place. Absolutely. The auto insurance market in California is not different than the auto insurance market we are seeing around the country. Now, the one thing that auto insurance in California, because of the protections of Proposition 103, prevented insurance companies from getting as much as a windfall during the pandemic when we were all stuck at home, not driving, whereas around the rest of the country, companies kept on charging as though it was 2019, even though we were all stuck at home.

Now there has been inflationary pressures, because of car repair costs that are independent, that are more driven than COVID, post-COVID, I think, than climate change. So we are seeing rate increases in California. But as the *Washington Post* just reported the other day, those rate increases are as severe around the country. It is not a California-specific thing, and it is by no means related to the regulatory oversight and consumer protections.

Chair BROWN. Thank you, Senator Vance.

Senator Warren, of Massachusetts, is recognized.

Senator WARREN. Thank you, Mr. Chairman.

So insurance is there for natural disasters, like floods, or fires, or storms, but climate change means that natural disasters are hitting harder and more frequently than ever before. And that is up-

ending the insurance market and pushing insurers out of entire cities or even entire States.

Without insurance, millions of families will be at greater risk for climate crises, and as whole communities lose access to insurance, the impact is going to be felt all the way through our economy. So let us talk about what some of the tools are to make some changes here.

More than 2 years ago, President Biden issued an Executive order, telling the Federal Insurance Office, FIO, whose job it is to monitor the insurance industry, to examine the impact of climate change on private insurance in the United States. So FIO proposed to collect new data from insurers that would help the Federal Government better understand climate-related financial risks and to assess the potential for major disruptions of private insurance coverage across the country.

Mr. Heller, would the data that FIO is proposing to collect help identify the threats to consumers and the economy from climate change? Would these data be useful?

Mr. HELLER. Yes, thank you, Senator Warren. Of course, they would. We really need to understand with granular data where the industry is more exposed, where coverage offerings are shrinking and consumers become more exposed, and how risk transfer has changed over time. Think growing deductibles, these lower rebuilding costs. The pressure to keep information from getting to the public and to public policymakers, not just through FIO, but for years we have seen this needing data, but not getting the data, I mean it is one of the reasons that the market crisis we are talking about today feels so sudden, because we have not been collecting the data that would have given us the tools to prepare.

Senator WARREN. OK. So I can tell I am talking to another data nerd. We want to get the numbers because they are helpful in helping us understand and assess risk. So if the information is important, we need the information, the President has asked for the information, why do not we have it? This has been more than 2 years now.

It turns out that the insurers and regulators, State regulators, are pushing back on this. They say that collecting this information is unnecessary—I am just going to quote them here—“ill-advised and burdensome,” and they have claimed that this data cull would threaten so-called existing efforts that insurers have made to mitigate the risk of climate change on policyholders. They are even saying that the FIO and the Biden administration is strong-arming insurers and regulators to adopt climate risk mitigating strategies, and this could lead to higher compliance costs on insurers and higher premiums on Americans.

Now it seems to me here that the insurers and the regulators are going out of their way to hide information about premiums, claims, profits, and coverage, and without that information, consumers have no way of knowing if a hiked premium is justified, or if it is just padding an insurance company’s profits. So Mr. Heller, you explained why we need the data. Why are the insurance companies resisting so hard on providing these data? What are they trying to hide?

Mr. HELLER. Well, the insurance companies do not want us, as the public, but also public policymakers, to really understand where things stand, because it allows them to do what we have seen in California, which is trying to bully regulators and policymakers by saying, "Oh, we are going to leave if you do not do exactly what we want. If you do not deregulate this market, we are just going to walk away from you."

The reason that FIO made the request for data was because there was this black hole where all the data needed to be, where we could actually figure this out for ourselves and understand. Is it, as some are suggesting, just a problem of regulatory burden, or is it insurance companies that did not do the preparation we have been calling for 20 years. Is the insurance companies to shifting around their books and businesses to protect their profits and expose more consumers? That data cull would reveal it, and that is why the insurance companies have lobbied so hard to keep it out of our hands.

Senator WARREN. Well, I very much appreciate the notion, and I am seeing nods here. I take it, Ms. Norris, you would agree with this, that we need the data and the data are essential, both for making good policy and just evaluating what the insurance companies are up to?

Ms. NORRIS. Absolutely. We know that the insurance companies themselves, big data is out there. They are using big data to evaluate risk and decide what the premiums are. We should all be able to see the transparency.

Senator WARREN. All right, I am all for transparency in this. I appreciate the work you are doing here. This is just a reminder that the insurance companies have kind of been playing every part of this game. They have underwritten financing fossil fuels, and then they profit from selling protection from the impacts of those fossil fuels on climate.

And now when climate risks are rising, they are trying to hang American families out to dry here and demanding either higher premiums or to get out of the market altogether. So there is lots going on here that poses real risk to our economy. We need these data and we need them now.

Thank you. Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Warren.

Senator Kennedy, of Louisiana, is recognized.

Senator KENNEDY. Can we agree that the FEMA-administered National Flood Insurance Program Risk Rating 2.0 is woefully inadequate? Mr. Heller.

Mr. HELLER. Yes.

Senator KENNEDY. Ms. Norris? Ma'am.

Ms. NORRIS. Yes.

Senator KENNEDY. Jerry, since I cannot say your last name.

Mr. THEODOROU. I would not say that it is woefully inadequate.

Senator KENNEDY. OK. Imperfect as it is, does it make sense to you, Mr. Heller, to allow the National Flood Insurance Program to expire?

Mr. HELLER. No, it does not. Short of getting a better solution in there, we need to have that backstop. We absolutely should keep that around until we—

Senator KENNEDY. We are not likely to get that better solution in a few weeks, are we?

Mr. HELLER. No, we are not, but I am glad——

Senator KENNEDY. Do you think it makes sense, Ms. Norris, to allow it to expire?

Ms. NORRIS. I do not think it makes sense for it to expire. It needs to continue to be funded and reformed, as needed.

Senator KENNEDY. All right. Mr. Jerry.

Mr. THEODOROU. Thank you for the question. I think it should be allowed to continue and not with the short-term, 1- or 2-month kicking the can down the road.

Senator KENNEDY. Right.

Mr. THEODOROU. I think there needs to be some more certainty about the availability of insurance. So I think a long-term reauthorization, 5 years, maybe 10 years is more in order.

Senator KENNEDY. Right. Ms. Norris, if the world became carbon-neutral by 2050, do you believe that would solve a lot of the problems of the costs of flood insurance and property casualty insurance?

Ms. NORRIS. Well, Senator, that is a pretty loaded question, and I am not a scientist, but I do think, number one, that that is a wonderful thing to think about. I would love to know that we could get there.

Senator KENNEDY. Well, I have thought about it, and hopefully, you have, too.

Ms. NORRIS. I have thought about it.

Senator KENNEDY. You do not want to answer my question. Mr. Heller, what do you think?

Mr. HELLER. It is not going to solve the property insurance crisis that we have now. It is part of the risk projection, as was discussed earlier. We are trying to make risk plans for years going into future. So we have to begin to solve that problem in the meantime.

Senator KENNEDY. You do not think it will solve the problem?

Mr. HELLER. It is not going to solve today's problem, no. We need to take more——

Senator KENNEDY. How about you, Mr. Jerry?

Mr. THEODOROU. I think it is a solution to a different issue to one of pollution and to emissions, and what are we going to do during the transition going from fossil fuels to renewables.

Senator KENNEDY. OK. If you were king for a day, Mr. Jerry, tell me what you would do to fix the problem of the cost of property and casualty insurance today.

Mr. THEODOROU. I would shine a spotlight on the areas where there is disruption and dislocation.

Senator KENNEDY. What does that mean?

Mr. THEODOROU. It means to——

Senator KENNEDY. Give me three specific things you would do. Just top-line to fix the cost problem today, in English.

Mr. THEODOROU. The California Legislature to repeal Proposition 103, to have Florida continue its tort reforms where it has eliminated the abuses.

Senator KENNEDY. All right. That is two.

Mr. THEODOROU. Two. And the third one is to educate the public about how insurance works.

Senator KENNEDY. They know how it works. It is called write a check, and then you have to sell blood plasma to go to the grocery store, which you probably have to do anyway, because of President Biden's inflation.

Give me three things you would do, Mr. Heller.

Mr. HELLER. Thank you. No shiny objects, as Jerry, as Mr. Theodorou was talking about. One, we need to be putting money into protecting homes, making sure the levees are strong, making sure that the communities——

Senator KENNEDY. OK. Government subsidies. That is number one.

Mr. HELLER. I would call it alternative——

Senator KENNEDY. Call it anything you want. What is number two?

Mr. HELLER. Number two is build a Federal reinsurance program, like TRIA. When businesses in America, when commercial sector was afraid they were not going to be able to get terrorism insurance anymore because of 9/11, we came and we created a solution.

Senator KENNEDY. So the Government gets into the reinsurance business. What is number three?

Mr. HELLER. Let us get the regulators on the ball in the States, move it down to the States and get them on the ball to actually go through some of the data. Because when we look at data coming in from these insurance companies——

Senator KENNEDY. OK. That is number three. Get the regulators on the ball. What is number four?

Mr. HELLER. Oh wow, I got four. Thank you, Senator. I think number four is to address the needs of lower- and moderate-income people by making sure we are not creating an insurance market that slices and dices and prices people based on socioeconomic status, with things like these—penalizing good, safe homeowners with credit penalties.

Senator KENNEDY. Can I give Ms. Norris a chance, Mr. Chairman?

Chair BROWN. Then your time expires after she answers, without comments.

Senator KENNEDY. I am sorry. Mr. Sherrod said I can give you a chance to answer, Ms. Norris.

Ms. NORRIS. How about if I give you just two? First, I will affirm everything that was just mentioned. Number one is we need to invest in ways of being able to get our communities and our buildings resilient.

Senator KENNEDY. OK. Government subsidies.

Ms. NORRIS. Yes.

Senator KENNEDY. That is number one. And number two?

Ms. NORRIS. Number two, to create the reinsurance program and we have got to stabilize the markets.

Senator KENNEDY. Get the Government in the reinsurance market.

Ms. NORRIS. Yes.

Senator KENNEDY. Thank you.

Chair BROWN. Thank you, Senator John. Your time has expired. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman. I thank you all for your testimony, and I will get to it, but I also want to raise some of the questions that Senator Kennedy raised.

Ms. Norris, thank you for pointing out that seniors and low-income individuals are especially vulnerable here, and suggesting some proposals to address that, including, as we have discussed, mitigation and resilience. I think you, as well, Mr. Heller, have talked about that.

But I think there is agreement here that the headline from the *Washington Post* just a few days ago sums up the problem, and the headline was "Home Insurers Cut Natural Disasters From Policies as Climate Risks Grows". And the first sentence says, "Some of the largest U.S. insurance companies say extreme weather has led them to end certain coverages, exclude natural disaster protections, and raise premiums." Everybody, all three of you, as I listen to your testimony, agree that is a problem?

Ms. NORRIS. Absolutely.

Senator VAN HOLLEN. OK. I understand, Mr. Theodorou, that you indicated that the price caps placed in California have exacerbated the problem, and clearly, there is some price point at which, you know, insurance companies have to raise its premiums to cover the costs of damage, and if someone caps the price lower than that, they will exit the market. That is your point, right?

Mr. THEODOROU. That is right. It is capped at 7 percent. That is another provision of Prop. 103.

Senator VAN HOLLEN. So if you remove the cap, and I understand your argument, you have to choose really between them exiting the market or raising the premiums, right?

Mr. THEODOROU. That is right.

Senator VAN HOLLEN. So the alternative to increase premiums on homeowners, including many low-income homeowners, right?

Mr. THEODOROU. That is right. And also to encourage not building and living in the Wildland-Urban Interface, which has not been mentioned, but there was a 39 percent increase in people building in the forests of California, where they are exposed to the wildfires. In Fort Myers, in Florida, has attracted—it is the sixth-largest place for people to move to. So it should have land use policy. Build smart. Do not build in areas that you will get hit.

Senator VAN HOLLEN. Right. I was listening to all your responses to Senator Kennedy's questions as to the answers, and a lot of proposals, Mr. Heller, Ms. Norris, involved some form of Government subsidy, whether for resilience, or, I think, Mr. Heller, you have also proposed a TRIA-like approach or an NFIP-type approach. Is that correct?

Mr. HELLER. Yes, except I would not say an NFIP approach. I would say the NFIP could be converted to a backstop, a reinsurance backstop.

But if I could quickly correct Mr. Theodorou, there are no price caps in California. That is just a falsehood that has been stated as a way to kind of create a fake boogeyman.

Over the last 2 years the average premium increase for homeowners insurance, unfortunately, the rate increases have been 12.5 percent. He said 7 percent. There is no rate cap. It is just that the

companies have to justify their rates to be accountable. That is a good consumer protection. So anyway, I wanted to correct that.

Senator VAN HOLLEN. Look, I am all for collecting the data, and I joined Senator Warren on her letter to collect the data. But as I listen to this we all know we have a problem because we have climate change. It is increasing the extremity, the intensity, and frequency of natural disasters. That obviously has a cost.

And so the question, in my view, is who is actually going to pay the costs, right? And in my view, we should look to those who have actually generated the reasons for the damage here. I do not think taxpayers should have to pay for this.

The market failure here is actually to price the cost of carbon emissions into the atmosphere that is heating up the atmosphere and causing these natural disasters. So I would just submit that rather than ask Mr. and Mrs. Taxpayer to have to be the ones who come forward, we adopt a proposal, which I have put forward and going to continue to pursue, to create what I call a Polluter Pays Fund, and ask the bigger emitters of greenhouse gases to help cover the costs of some of this, whether it is through a TRIA-type system or some other system.

What would you all think? That is a market-based solution. That deals with the externality that is not currently captured, if I could just get a response from each of you on that idea.

Mr. HELLER. Senator Van Hollen, of course, the Consumer Federation of America would be supportive of that, we do. But let me make a slightly nuanced point about that. The insurance companies, of course, continue to underwrite a lot of the fossil fuel producers in the country, and they use the investments, our premium dollars, to invest in those fossil fuels and make a good return on it.

And then, as they profit off of these factors that drive climate change, they downstream the external costs to the homeowners, and property owners and nonprofits that have homes through our insurance premiums. So they make the profits on climate change on the front end with their investments, and then they downstream the cost of it to consumers in our premiums and our reduced coverage.

So I think it is even more than that, but I would absolutely support there being a private sector source to cover these costs, so it does not just flow down to individual families.

Senator VAN HOLLEN. Well yes, a private sector source based on those who—

Mr. HELLER. Responsibility, responsibility-driven. That is right.

Ms. NORRIS. Senator, I think it is a great idea. I guess I would also say that climate change, which has been coming and is now here, and we are all seeing it exacerbate, if we had started maybe a single-solution 10 years ago, maybe we could have mitigated some of the issues that are here today. We need this and more issues, more solutions. So I would support that solution, along with many of the other ones that have been brought to the table today. We have to act in many, many ways in order to fix what is currently here right now.

Senator VAN HOLLEN. Thank you.

Mr. THEODOROU. I think the intention is noble, but it may miss the target, because the largest emitters, the largest fossil fuel companies drilling, exploring, refining, are outside of the ordinary property casualty insurance marketplace. They have captives, the largest oil and gas companies have got their own captives, their own inside insurance companies, which could be beyond the pale of regulators, because they are not regulated the same way.

Senator VAN HOLLEN. Right. Just to be clear, we would be essentially capturing the funds/fees based on those polluting and they would have to help defray the cost. It is a market-based solution.

Thank you, Mr. Chairman.

Chair BROWN. Thank you, Senator Van Hollen.

Senator Britt, from Alabama, is recognized.

Senator BRITT. Thank you, Mr. Chairman.

I would like to start by reiterating the importance of preserving our State-based system of insurance regulation, a system that has effectively protected consumers for over a century.

I am concerned, however, that the recent actions of this Administration risk undermining the very premise of the system. Rather than leveraging the expertise of State insurance regulators, Treasury, and FIO are acting unilaterally to push this Administration's climate agenda, including by requesting a plethora of highly detailed climate information from insurers.

Not only has Treasury been unclear with how they intend to use this data that they collect, but the effort would be duplicative in many ways, as many States and the NAIC already collect similar data to help them understand the economic impact of natural disasters and weather events. Any efforts from Treasury or FIO to sidestep State insurance regulators blatantly undermines congressional intent. FIO should work with, and not around, State insurance officials that have decades of experience assessing the market impacts of these catastrophic weather events.

In this regard we have had an active hurricane season last year, and have already seen a number of named hurricanes in 2023. The frequency of such weather events has inevitably impacted the property insurance market. Insurance premiums, like all prices, are market signals to consumers, and the property insurance space, the higher the insurance premium indicates the existence of higher risk. As someone who lost my house, and my cars, and my things in a storm, I get it, and I get the importance of it. I also come from a State that is ravaged by storms, whether they be tornadoes or hurricanes alike, so I understand the importance of getting this right.

In response to higher insurance premiums, States like California have implemented overly restrictive regulations, including price controls on insurers. In essence, this deprives homeowners of market signals that could steer them toward building in better, less dangerous places, or encourage them to build more disaster-resistant homes. So I want to get your thoughts on that statement, Mr. Theodorou.

Mr. THEODOROU. Theodorou.

Senator BRITT. Theodorou. I am going to do my best to get that right. Can you tell me, do you agree with that?

Mr. THEODOROU. Thank you, yes. I do, 100 percent. I agree that the efforts to get more data from insurance companies on catastrophes and their exposure is superfluous. Data is there.

There is data at NOAA, and from reinsurance companies that look at natural catastrophes, looking at frequency and severity. At R Street Institute, because there was disagreement about whether there is increasing severity and frequency, we have been studying this in a publication that should come out in a few months, and also, the FIO, the Federal Insurance Office, if you look at its remit, what is it statutorily supposed to do? To monitor the insurance industry, not to direct or to manage or to insert itself. In many ways it is an agency without a mission. It was created as part of Dodd-Frank, when people thought that the insurance industry was responsible for the global financial crisis, which it was not.

So the Federal efforts that have been introduced, however well-intentioned, have not been successful. If you look at the financials of the NFIP, or the crop insurance program, and the way that the efforts to launch federally backed reinsurance backstops have failed, going back to Hurricane Andrew of 1992, let us not repeat the mistakes of the past.

Senator BRITT. Absolutely. And I only have a little bit of time left, so I am going to transition into bragging on my State. We have heard a number of questions asked and a number of different solutions. I want to tell you somewhere where I believe Alabama has gotten it right.

We have seen firsthand what effective regulation and active resiliency efforts look like. For instance, in Alabama, we have had a State Grant Program that incentivizes homeowners to fortify their roofs to withstand severe weather. The program was in response to damage ensued by Hurricanes Ivan in 2004 and Katrina in 2005.

It was created to incentivize investments in more resilient homes and to encourage insurers to continue issuing policies in these storm-prone communities, with the goal of reducing future hurricane damage. When Hurricane Sally hit in Alabama in 2020, I am proud to say that the nearly 16,000 homes and buildings with fortified roofs remained intact.

This resulted in lower insurance claims with less debris clean-up and allowed the community to reopen and recovery more swiftly. This is what effective action looks like, where State officials assess an event, identify a solution, and put into practice, without regulatory overreach, something that works.

Additionally, just last week, due to the great work of Governor Kay Ivey, Commissioner Mark Fowler, and Commissioner Jeff Smitherman, the new Alabama Resilience Council met for the first time. The Council will focus on public-private collaborations to help build stronger, safer, more resilient communities. This is just another great example of effective State-driven solutions.

And I am out of time, but certainly appreciate any comments that you have on the great work that Alabama is doing.

Mr. THEODOROU. It is my understanding that Louisiana has copied the program, which is a good thing. But I would say that it does not have to be Government that provides this funding. The homeowner, I replaced the roof on my house, I called my insurance

agent, and I got a credit on my insurance. Doing the right behavior leads to lower losses, leads to lower premiums.

Chair BROWN. Mr. Heller, be very brief.

Mr. HELLER. Just very briefly, in my written testimony I pointed out the fortified program in Alabama. This is a model where Government can partner with communities, and I agree with Jerry. Unfortunately, not enough insurance companies are incentivizing by giving people discounts or making policies available when they do invest in their homes.

So I think this is a very important piece of the effort, which is why we focused so much on front-end work, like is being done in Alabama, rather than trying to clean up after the disaster with FEMA money, when we could be doing it with insurance money, and better, resilient homes.

Senator BRITT. Thank you.

Chair BROWN. Thank you, Senator Britt.

Senator Cortez Masto, of Nevada, is recognized.

Senator CORTEZ MASTO. Thank you. Let me follow up on the conversation, because as someone who worked closely with our State Division of Insurance, I absolutely believe the States have incredible data that should be utilized as well.

And then, Mr. Heller, let me touch on this, as well. You noted also that Nevada regulators offer expedited review for insurers who submit filings to add discounts for homeowners who take mitigation measures. So let me just start there. What are some of the ways we can encourage insurers to incorporate mitigation incentives when they set the premiums?

Mr. HELLER. Thank you, Senator Cortez Masto. This is an incredibly important thing and we are very appreciative, and we have worked with the Nevada Division of Insurance on exactly this. By laying out really clear discounts to homeowners that insurance companies should be providing based on the science that is out there, and we have the Insurance Institute for Building and Home Safety doing a lot of great work on this front, and groups like my colleagues at United Policyholders, we know that when you build stronger roofs, when you clear brush, when you take these actions, you can reduce the risk, and that reduces premiums.

Unfortunately, too many companies have not followed through on giving those discounts but many are, and more in California. They are required to. So that is being built into it. In Nevada, there are these incentives and States should look at Nevada and California Departments of Insurance and looking at what is being done in Alabama. Because we make ourselves safer, we reduce the risk, we reduce the costs. So this is the kind of work that we should be focusing on right now, rather than some of the conversations about throwing away consumer protections.

Senator CORTEZ MASTO. I appreciate that, and in Nevada we have seen rains and recently, extreme weather absolutely happening. You see it across the State of Nevada, because of the rains and flooding, flooding that has been devastating to some structures there, particularly in southern Nevada. I know Nevada has worked hard to build defensible space for its communities. I will say that the U.S. Army Corps of Engineers has helped us in certain areas of the State. There are great partnerships that can happen. But I

do agree, there needs to be more opportunities and incentives to lower those premium costs, the work that homeowners do.

Mr. Heller, let me, while I have you, talk about manufactured housing. In your written testimony, you note people that live in manufactured homes pay more for lower-quality homeowners insurance. Can you explain how insurance policies seem to fail some of the 20 million people who live in manufactured homes?

Mr. HELLER. Yes. Thank you, Senator. That is one of the more disastrous little segments of the market, and, of course, it hits lower-income homeowners and also older homeowners quite a bit. So these policies that are written for the manufactured homes are generally now what is called actual cash value, so they depreciate the value of the home when you need to file a claim, so you do not actually get everything that you need to fully rebuild.

They have weird exclusions. For example, the HVAC systems in those homes are considered contents, which has less coverage than what we see in normal homeowner policies, in which they are part of the home for rebuilding. So it is harder to do that. And then for some people, you cannot collect your full claim if you do not rebuild in the same place.

Well, if your home park does not reopen, you cannot rebuild in the same place, so you do not even get to use the policy that you have been paying for. And yet these manufactured home policies, which the market is even less competitive than the regular homeowners market are more expensive on a per dollar basis, and sometimes just more expensive altogether than homeowners. So it is a really tough market to be someone who is living in a manufactured mobile home and trying to get their coverage.

Senator CORTEZ MASTO. Particularly at a time when really manufactured homes are different than the manufactured homes of the past—correct?—and there are more people that should be taken advantage of the lower cost for manufactured homes that put a roof over your head, that will provide you a level of comfort and security.

Mr. HELLER. Yeah. In a way the insurance industry is trying to insure homes from decades ago, and we have actually done a good job of making more affordable housing through manufactured homes, and yet the insurance products are substandard for people, who either because they want to or because it is really all they can afford, are in these communities and in these types of home. We need to do a better job to make the insurance coverage better, and regulators need to pay attention to these forms because they are not good enough.

Senator CORTEZ MASTO. Thank you. Ms. Norris, let me talk to you and stay on the affordable housing piece, because our Nation desperately needs affordable housing. Nevada is no different, and something I have been working in the State.

I appreciate your testimony telling us that rising insurance costs undermine not just the future of affordable properties but those that currently provide homes to people. Can you expand on your statement that affordable housing providers may be forced out of the affordable housing market because of insurance and operating costs outpace allowable or even feasible rents.

Ms. NORRIS. Yes. Thank you for that question, Senator. Yes, the affordable housing community is a regulated world, right? There are a lot of different programs of affordability, but they all run on some basic principles. Number one is the people that move into our communities are people who need to move into your communities. They cannot make too much money. That is rule one.

Rule two is we cannot charge them too much money to live there. So that is basically the two rules of affordable housing. So essentially, whenever you have a serious situation like this, with these catastrophic increases of expenses that rise quickly, there is no way to do an adjustment of the rents, nor do we necessarily want to. We do not want to just do a dramatic increase in rents for folks that cannot afford it.

But what that leaves us with is the situation where our expenses are crushing our operational margin, or even our ability to meet our costs. That is a real problem, because the regulators often—for example, with HUD, we can go and ask them for rent increase, but if an insurance premium, which hits in the middle of the year, and we have already got a rent increase, we cannot ask for another rent increase, and if we ask it at the next year, it may take them a while, actually a significant amount of time, to actually approve that rent increase. So we are set in a position where those rents cannot possibly meet the expenses.

That forces us, as an owner, to make really bad decisions. We have to either stop doing certain services, we have to defer expenses, any expense we can. And eventually, it could end up saying we just cannot afford to do this. It could put those properties at risk, which can put at risk people's homes, and that is like 100 people at a time or 200 people at a time. So the impact on affordable housing is significant, especially compared to even the market. Does that help?

Senator CORTEZ MASTO. It does. Thank you. I know my time is up.

Chair BROWN. Thank you, Senator Cortez Masto. One minute.

Mr. HELLER. Even less than that. I just wanted to add onto one point, because it is something you brought up the beginning of the hearing, Senator. Nonprofit organizations are having a lot of trouble in the property insurance market, as Michelle has described, and you have been working on making the risk-retention groups available to nonprofits. These are alternative mechanisms for insurance. I think that is just something we should be making sure that we add into the mix here, because it really is an opportunity to have a private-market solution that will help avoid the chaos that we are seeing for nonprofit housing developers, as well as other nonprofits.

Ms. NORRIS. And I want to thank him for sharing on my behalf.

Chair BROWN. Sure. Thank you. Thank you to the three witnesses today for being here and providing testimony. Senators who wish to submit questions, those questions are due 1 week from today, Thursday, September 14th. The three of you you have 45 days to respond to any questions. Thank you for that.

One other thanks to Jordan Harris, who will be leaving at the end of the week to take a job working on equity issues. Congratulations on that.

The hearing is adjourned.

[Whereupon, at 11:50 a.m., the hearing was adjourned.]

[Prepared statements, responses to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF CHAIR SHERROD BROWN

Few financial decisions are more important than buying a home. Home buyers are making an investment in themselves, their families, and their communities. Home buying is an act of optimism.

It's also stressful.

Families buying a new home have so much to think about—making sure they can cover their downpayment, navigating the mortgage and closing process, moving in, getting their kids set up in a new school.

Buying homeowners insurance has always been a part of that process, and gives families certainty and peace of mind.

Homeowners are confident that their monthly insurance premiums will provide a backstop against the physical and financial devastation that would ensue if their largest investment is threatened by a natural disaster—a tornado, hurricane, wildfire—or other dangers or accidents.

Knowing they're covered can help homeowners sleep better at night.

Or that's how it's supposed to work.

Increasingly, however, homeowners have faced an unpleasant surprise when it's time to renew their policies.

Homeowners who have spent years making their payments are shocked to find that their insurer has raised costs, limited coverage, or won't renew their policy at all.

Some insurers have abandoned entire markets—leaving consumers with fewer options that cost more and provide less coverage.

And consumers are counting on their insurers now more than ever.

According to NOAA, since the beginning of the year, the country has experienced 15 weather disasters, each resulting in losses of more than \$1 billion.

Swiss Re, a leading reinsurance provider, estimated that severe storms resulted in \$34 billion of insured losses in the first half of this year alone—the highest ever in a 6-month period.

From Hawai'i to Florida to Vermont, extreme weather events upended millions of Americans' lives.

Last month's horrific, deadly wildfires in Hawai'i tragically killed at least 115 people, with hundreds more still missing, and projected losses of \$6 billion.

Losses from Hurricane Idalia, which plowed through Florida, Georgia, and parts of the Carolinas last week, could reach \$20 billion.

Senators Welch and Sanders sent a letter to the Ranking Member and me ahead of this hearing, detailing the losses Vermonters have suffered from devastating floods this summer.

And higher insurance costs could hit the very homeowners, landlords, and renters who can least afford them the hardest. So often it's the lowest-income residents and communities of color who have been pushed into the areas that are most vulnerable to natural disasters.

As weather patterns continue to change because of climate change, risk and exposure will extend to places that have not previously been prone to natural catastrophes.

This has led insurance companies to reevaluate risk concentration levels—and not just on the coasts.

As the head of the association for property insurers said, "There's no place to hide from these severe natural disasters."

The result has been a disturbing and abrupt trend.

Companies are restricting coverage, raising rates and deductibles, and in some cases, leaving States or geographic areas altogether. As Secretary Yellen recently noted, the result is a "protection gap" that is increasing costs and limiting options for families, and it's increasing financial stability concerns across the financial system.

U.S. reinsurance rates—the cost of insurance that insurance companies buy to protect themselves by spreading out risk—have reportedly increased by up to 50 percent. These jumps in reinsurance premiums have been driven in part by frequent and more severe natural disasters for themselves and their investors.

Higher reinsurance rates mean higher costs for insurance companies, which then mean price hikes passed down to consumers every month.

This has left millions of Americans paying more for homeowners insurance—often with less protection than before—while others are scrambling to find any insurance at all, because their insurer has refused to renew their policy.

Most recently, in California, two major insurers, State Farm and Allstate, stopped writing new home insurance policies in the State. Both cited the growing risk of catastrophe and spiking reinsurance rates as factors in their decisions.

In Florida, since 2020, 16 severe storms and hurricanes have caused more than \$100 billion worth of damage and led to an exodus of insurers.

Farmers Insurance became the fourth insurer to exit the Florida market in the last year—joining Bankers Insurance, Centauri Insurance, and Lexington Insurance—when it announced in July that it would stop writing property insurance policies—leaving 100,000 Florida residents looking for new coverage.

Days later, AAA announced that it would not renew some “high exposure” policies in the State.

Despite the fact that average yearly homeowners insurance premium in Florida cost \$6,000—the highest in the country, 14 insurance companies have either left the State or have entered the receivership process.

Insurers exiting State markets have left homeowners and businesses with no choice but to seek coverage from State-mandated insurers of last resort—which provide bare-bones policies at typically higher costs.

Insurers of last resort are exactly that—a last resort. That used to mean that these insurers had a small share of policies.

But as climate risk exposure has increased, insurers of last resort are growing.

In Florida, for example, Florida Citizens, the State’s insurer of last resort, is now the State’s largest property insurer with 1.4 million policies.

California’s insurer of last resort, the California FAIR Plan, has seen more than a 100 percent increase in policies since 2018—with California FAIR Plan reportedly offering coverage to 300,000 policies at the end of last year.

And it’s not only homeowners who have been hit by rising costs and shrinking coverage.

The National Multifamily Housing Council reports similar issues for multifamily sector: higher rates and deductibles, coverage limitations, and in some cases, no viable private market insurance coverage option at all.

And because each insurance policy is a contract between a property owner and their insurer, it’s harder to know when insurers have stopped writing coverage for apartments in a community or a State.

But apartment owners are seeing a clear trend.

In many cases, renters will ultimately bear the burden, as higher insurance costs are passed on to them in the form of even higher rents.

Owners of our already too-small supply of affordable apartments serving the low-income renters may be increasingly left with impossible choices.

Today’s witnesses understand the unique challenges facing both homeowners and property managers. Ms. Norris, from my home State of Ohio, is seeing the problem of rising insurance costs firsthand across the many States where National Church Residences provides affordable homes for America’s seniors.

I am pleased to have them before us today as we explore these important topics.

PREPARED STATEMENT OF SENATOR TIM SCOTT

Thank you, Mr. Chairman. Thank you all for joining us today for such an important conversation about the state of insurance in States around the country and the important role that insurance plays in the ability for homeowners, specifically as we discuss today, to transfer the risk to an insurance company.

As you would imagine, coming from South Carolina, thinking about my friends in Florida, in Georgia, in North Carolina, thinking about the devastation, the fires in Maui. My prayers and my thoughts are certainly with those folks who have lost family members, who’ve seen their lives devastated, their properties destroyed.

So much attention is given to the challenges of the environment, climate. But too often what we see, whether it’s in Maui or in other States, is a man-made disaster that jeopardizes insurance in those States.

I think about the fact that in my lifetime, as an adult, I spent 20-plus years in the property casualty insurance business. And so, I do have an affinity for terms that we use when I was in business and—Mike, have you ever been in insurance? Okay, good. So, Mike also was an insurance agent and an agency owner as well.

And one of the things that we would both talk about is the PML, the probable maximum loss. Can [an] insurance company calculate accurately, or even in the range of reality, what is a probable maximum loss within a market, whether that market is the Charleston area where we are prone to hurricanes, or whether it’s the State of California, or Ohio with storms and/or other natural disasters, can a company predict the loss that will be incurred, and can they absorb that loss based on the premiums they charge per policy?

And when you cannot, you do not stay in a market. It is kind of that simple. Insurance companies have to follow the basic rules of economics, like any other busi-

ness. And that's one of the challenges that we see, particularly in States like California and Florida. California's overregulated market makes it very difficult for insurance companies to make a profit in those States.

And when you can't make a profit, you don't stay in those States. It's one of the reasons why you see, rather a State Farm, AIG, the insurance companies that we just named, leaving markets—it's because rates sufficiency is impossible to get there.

And then the inability to find the path forward, rather it's the NFIP that provides some reduction of that risk or as I've discussed before, the absolute necessity of us to get our arms around the catastrophic occurrences from coast to coast—whether that's a hurricane, an earthquake, a flood, or tornadoes. We have not really wrestled with the actual damages done by catastrophic occurrences across the country.

If you're on the coasts or frankly, if you're in the south, rather, it's Louisiana, Florida, or South Carolina, we account for half of all the premiums going in the NFIP. But when a flood happens in New York or in New Jersey or in Ohio, the policyholders there never heard of or thought of a flood insurance policy. And so they're drawing money out of account without having put any resources in that account.

So we have some real challenges that we should identify and understand and appreciate that every insurance company is wrestling with today. But you think about States like California and Florida, two things without question come to mind—one State you have a burdensome marketplace that is oppressive, that drives business out. It's not just insurance companies that are fleeing the State of California—every other business that can find another place to go seems to be looking for a different market, so I understand that.

Florida—part of the challenge that we see in Florida is that the regulatory environment is challenging. Certainly, the natural disasters are challenging, but with only 9 percent of the policies—homeowner policies in the country—they represent about 79 percent of homeowner insurance lawsuits. Over the last decade, companies in Florida have paid out \$51 billion. However, 71 percent of that goes to attorneys' fees. Something's broken in the market where it's not the homeowner that's receiving the lion's share of the resources, it's the lawyers because of the challenges in a broken State as it relates to the litigious environment that is apparent, obvious, and clear in Florida.

And so, whether it's California or Florida, we need to understand holistically the challenges that these insurance companies face and why they continue to pull out [of] the markets. I'd love to hear from the experts today solutions, opportunities to recalibrate markets, and for us to have a panoramic view of how to keep insurance companies viable in those markets because, without any question, homeowners today are desperately looking for opportunities to afford the coverage.

I think the average—as the Chairman suggested earlier—the average premium for a house [is] \$1,700 dollars for homeowners. For the same policy in Florida, it's \$6,000 dollars. That's the case—it's not simply a case of rate sufficiency based on the probable maximum loss of a natural disaster. It has to do with the \$51 billion dollars paid to attorneys that have to be factored into that new definition of rate sufficiency that is going to be really hard to meet if that environment doesn't change.

PREPARED STATEMENT OF DOUGLAS HELLER
DIRECTOR OF INSURANCE, CONSUMER FEDERATION OF AMERICA
 SEPTEMBER 7, 2023



Consumer Federation of America

Testimony of Douglas Heller¹
 Director of Insurance, Consumer Federation of America²
 before the
 United States Senate Committee on Banking, Housing, and Urban Affairs
 “Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers”
 September 7, 2023

Summary of Testimony

As residents of Florida, Georgia, the Carolinas, California, Hawaii, and Vermont attempt to put their lives and neighborhoods back together after major, and some quite unexpected,³ disasters this summer, a broader concern about the ability of homeowners, renters, and other property owners to sufficiently protect their assets is rightly in the spotlight. We appreciate the opportunity to share the research and perspective of Consumer Federation of America (CFA) with this Committee.

The failures we see in property insurance markets today are a result of several reinforcing factors. First, insurers ignored climate risk for decades. When a few state insurance commissioners started development of a climate risk assessment and disclosure for insurers in the early 2000s the property-casualty insurers and trade associations opposed the effort and continued to oppose climate risk assessment and disclosure until just a few years ago. Instead of preparing for climate risk by working with policyholders, businesses, and communities with loss prevention partnerships, the insurers hollowed out policies with exclusions and higher deductibles, shifting risk onto consumers.

Highlighting newly released data from the National Association of Insurance Commissioners (NAIC), *The Washington Post* reported this week that several insurers, have told regulators that extreme weather patterns caused by climate change have led them to stop writing coverages in some regions, exclude protections from various weather events and raise monthly premiums and deductibles...[saying] they will cut out damage caused by hurricanes, wind and hail from policies underwriting property along coastlines and in wildfire country...⁴

¹ Douglas Heller is Director of Insurance at the Consumer Federation of America. He has more than 25 years of experience in public policy, consumer advocacy, and regulation associated with property & casualty insurance markets. Heller is a member of the U.S. Department of Treasury's Federal Advisory Committee on Insurance, an appointee to the California Automobile Assigned Risk Plan Advisory Board (CAARP), and a Member of the Executive Board of the Coalition Against Insurance Fraud. douglasheller@consumerfed.org

² Consumer Federation of America is a nonprofit, nonpartisan association of more than 250 national, state, and local nonprofit consumer organizations that was founded in 1968 to advance the consumer interest through advocacy, research, and education.

³ The Maui, Hawaii fire was the deadliest in state history; the Vermont flooding was among the worst (though not as severe as the 1927 flood); and California saw highly unusual tropical storm damage this summer.

⁴ Bogage, J., September 3, 2023. Home insurers cut natural disasters from policies as climate risks grow. *The Washington Post*.

As a starting point of any discussion on this issue, we must acknowledge that insurance companies reducing their exposure to property losses in order to protect their profitability does not address, and only worsens, the threats posed by climate change to American homeowners, renters, and other property owners. For decades, insurance companies have taken consumers' premiums and provided critical protections, giving people the comfort in knowing that their long-term investment in a home and community was reasonable, at least from an insurability perspective. So, it makes no sense to homeowners, and should raise deep skepticism among regulators and policymakers, that insurers are suddenly leaving or dramatically increasing premiums so as to make quality coverage effectively unavailable for far many Americans who long relied upon and trusted those insurers, which accepted the risk and collected the premiums.

If we want to effectively address the challenge brewing at the intersection of climate change and insurability, it cannot happen simply by transferring the increasing climate risk back to American homeowners, renters, and small businesses. Consumers, insurers, and government need to be allied in the effort to prevent or minimize losses, strengthen the sources of protection against catastrophic risk for both consumers and insurers, and work together to make smart and equitable decisions about where and how we build and rebuild communities in light of the consequences of climate change.

As an overarching summary of our testimony, we highlight the following points:

- Severe rate hikes by insurers and sudden announcements to limit sales in communities that companies have served for decades wreak havoc on homeowners and other property owners in Florida, Louisiana, California, Colorado, Texas, and a growing list of other states.
- Two primary drivers of premium increases and regional availability crises are the interacting effects of climate change and the exploding cost of risk transfer in the unregulated, global reinsurance market. Additionally, the increasing use of drone imagery, scoring algorithms, and predictive models are giving insurers a magnified and, in some cases, exaggerated picture of existing and prospective customers' risk profiles.
- To address affordability and availability, we must focus on providing and incentivizing more investments in risk reduction and loss mitigation.
- To stabilize the insurance market, we need to incorporate mechanisms that supplement the unregulated reinsurance market, such as a public mega-catastrophe reinsurance facility, to offload some of the extreme climate-change driven risk.
- Arguments that the problems stem from consumer protection laws that provide regulatory oversight or legal accountability for bad actors in the insurance industry are a distraction from the fundamental forces creating the availability and affordability problems.
- Rather than shifting more of the risk burden to consumers through much higher deductibles and hollowed out coverage, policymakers should be encouraging the sales of more comprehensive all-risk policies that will provide more protection for homeowners, will more effectively spread risk, and will result in less reliance on post-disaster emergency aid.
- The problems in the insurance market must be considered in a larger framework that also includes public policy related to climate change, land use, building codes, and housing affordability and equity.

Detailed Testimony of Douglas Heller, Director of Insurance, Consumer Federation of America

Property insurance provides an essential service and financial protection to its policyholders. In its best form, insurance allows people to transfer much of their risk of loss to an entity supported by a pool of others who also pay a premium so that when a risk becomes a reality, whether in the form of a family's kitchen fire or a catastrophic storm, there are financial resources available to support the repair and rebuilding process. This best version of an insurance market also helps communities and property owners better understand risk and supports, through investment and incentives, strategies for minimizing and preventing losses. This risk intelligence and harm reduction aspect of insurance lowers the long-term costs of home ownership and enhances community and personal safety. In short, insurance can be a tool that improves financial security and stability, increases neighborhood resilience, and leads to safer homes and communities.

For several reasons, though, the nation's homeowners, renters, and other property owners, including small businesses, farm owners, and nonprofits, find themselves facing an insurance market that is not achieving those goals or meeting consumers' needs. Beyond the fact that insurance is a financial necessity for most homeowners, it is a mandatory purchase for the vast majority of Americans, because their mortgage lenders require significant coverage in order to receive and maintain the loan. Since home insurance is – much like state-mandated auto insurance coverage – akin to a utility that homeowners cannot live without, the homeowners insurance product, the companies that sell it, and the market for it need to be well-regulated and, as this committee is doing by conducting this hearing, subject to oversight and review to determine critical and systemic problems and identify opportunities for improvement and reform.

With this testimony, CFA presents an overview of the home insurance crisis facing millions of Americans and threatening even more. We also identify and discuss some of the key factors driving the crisis, and we present opportunities for addressing these challenges as well as point to aspects of the issue for which continued research and discussion among all stakeholders are needed.

Affordability and Availability of Quality Property Insurance – a Bedrock of Modern Homeownership – Is in Jeopardy (or Worse) for Millions of Americans

Insurance rate increases are unsustainable for homeowners, renters, and other property owners

We begin with an important piece of data: In 2022, Americans paid \$125 billion for homeowners Insurance, according to the National Association of Insurance Commissioners (NAIC). That is 9.6% more than 2021 and 35%, or \$32.6 billion, more than just five years prior.⁵ After accounting for the estimated increase to the number of insured houses in 2022 compared with 2017, the increase in home insurance premiums rose about 40% faster than inflation as measured by the Consumer Price Index. It is no surprise, then, that the premium increases showing up in consumers' renewal notices are so alarming and earning so much public attention.

⁵ 2022 industry total direct premiums earned for Homeowners Multiple Peril Insurance Line 04. National Association of Insurance Commissioners, March 1, 2023. Property/Casualty Market Share. Retrieved from <https://content.naic.org/sites/default/files/research-actuarial-property-casualty-market-share.pdf>. 2021 and 2017 calendar year data from respective years' NAIC Market Share Reports for Property/Casualty Groups and Companies By State and Countrywide.

The rate increase data, however, can be misleading. NAIC data show that the average premium for homeowners insurance⁶ in 2017 was \$1,211.⁷ While granular 2022 data are not yet available, it is reasonable to estimate that, after accounting for increases in the number of insured homes, the average premium for home insurance in 2022 was in the range of \$1,500 to \$1,550. However, both the average premium charged to policyholders and the average rate increase imposed on customers are not evenly distributed around the country or even within states and counties. As one might expect, the premium increases for homeowners in more catastrophe prone areas are substantially above the average rate hikes we are seeing. The \$1,500 annual homeowners insurance premium, while itself a burden for many Americans, would be financially transformative to those facing premium quotes in the range of \$500 or more *per month* in communities with either a history of, or new predictions for, climate related disasters.

It is worth noting, as a reminder that the problem of high insurance rates is not just a coastal problem, that the most expensive states for homeowners insurance are inland – often with severe tornado and hail risk. Oklahoma, Kansas, Nebraska, Colorado, Arkansas, and Kentucky are the states with average premiums above \$2,000 per year for \$250,000 in coverage, according to a June 2023 Bankrate.com study.⁸ A different study published on Insurance.com reported substantially higher average premiums using a different methodology but found similar results for highest priced states, except that it included Texas, South Dakota, and Mississippi in the group of the very highest home insurance premiums nationwide.⁹ *The Wall Street Journal* further reports that since January 2022, “Arizona, Texas, North Carolina, Oregon, Illinois and Utah had the biggest total of approved increases, ranging from 20% to 30%.”¹⁰

Beyond the geographic, topographic, and climate factors driving increasingly untenable annual premium quotes 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.¹¹ Similar to the doubling of premium that low-credit, but safe, automobile drivers see in the United States,¹² homeowners are charged higher premiums when they have lower credit, even if they have never filed a claim. According to the insurance website ValuePenguin.com, using data from three major insurers in Texas, homeowners with fair credit scores (this equates to a 710-740 FICO score, according to the

⁶ These data reflect all types of home coverages, including dwelling, renters, condo, mobile homes, and owner-occupied.

⁷ National Association of Insurance Commissioners, 2019. Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner’s Insurance Report: Data for 2017.

⁸ Sham, June, June 29, 2023. Homeowners Insurance Rates by State for 2023. Bankrate. Retrieved from <https://www.bankrate.com/insurance/homeowners-insurance/states/>.

⁹ Kasperowicz, Leslie, September 1, 2023. Average Homeowners Insurance Rates by State in 2023. Insurance.com. Retrieved from <https://www.insurance.com/home-and-renters-insurance/home-insurance-basics/average-homeowners-insurance-rates-by-state>.

¹⁰ Eaglesham, J., July 30, 2023. Home Insurers Are Charging More and Insuring Less. *The Wall Street Journal*. Retrieved from <https://www.wsj.com/economy/housing/home-insurers-are-charging-more-and-insuring-less-9e948113>.

¹¹ The use of credit for homeowners insurance underwriting and rating is prohibited in California, Maryland, and Massachusetts.

¹² Heller, D. & DeLong, M., July 31, 2023. The One Hundred Percent Penalty: How Auto Insurers’ Use of Credit Information Increases Premiums for Safe Drivers and Perpetuates Racial Inequality. Consumer Federation of America, retrieved from <https://consumerfed.org/reports/the-one-hundred-percent-penalty-how-auto-insurers-use-of-credit-information-increases-premiums-for-safe-drivers-and-perpetuates-racial-inequality/>.

report) see a 46% increase on their premium over similar homeowners with excellent credit. For those with a FICO score in the low 600s, homeowners insurance premiums more than double.¹³ This credit penalty amplifies the impact of the recent spate of rate hikes across the country.

While the use of credit to price homeowners insurance is itself worthy of further investigation – especially as insurers have no credit risk with their policyholders who will be canceled if they fail to make a payment – we highlight it here to point out that the homeowners insurance crisis is not spread evenly through our society. As Federal Reserve research has illustrated, “we find substantial overlap between the geography of subprime-scored households and racial segregation...[and] the creditworthiness of households is intertwined with economic adversity at the neighborhood level.”¹⁴ In another report, Federal Reserve data show,

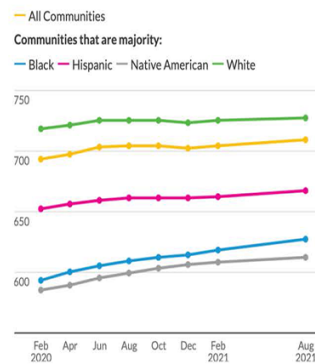
Scores tended to be lower among LMI [low- and moderate-income] borrowers (those with incomes of less than 80 percent of area median family income) and those living in or moving into LMI neighborhoods (census tracts with median family income less than 80 percent of area median family income) or predominantly minority neighborhoods.¹⁵

Similarly, the Urban Institute shows the credit scoring disparities graphically,¹⁶ and the implications are clear: Black, Latino, and Native American homeowners and renters will face higher insurance premiums irrespective of their claims or loss history because of the use of credit-based insurance scoring.

Notably, the intersection of credit scoring and insurance premiums is further amplified by the geography and demography of effects of climate change. Citing research on flood risk in particular, Carolyn Kousky and Karina French highlight, in *Inclusive Insurance for Climate Related Disasters*,

“Research has found that some natural disaster risk — today and even more so in the future as the climate changes — is higher in neighborhoods with

Median credit scores reveal persistent racial disparities



Source: Tabulations of Urban Institute credit bureau data.
Notes: Credit scores are Vantage scores that range from 300 to 850. The communities listed in the key refer to zip codes where more than 60 percent of residents are Native American or in the respective racial or ethnic group.

¹³ Breiner, B., May 30, 2023. How Credit Scores Can Affect Home Insurance Premiums. Retrieved from <https://www.valuepenguin.com/how-credit-scores-affect-homeowners-insurance-rates>.

¹⁴ George, T., Newberger, R., & O'Dell, M. (2019). The geography of subprime credit. Profitwise, (6), 1-11.

¹⁵ Bhutta, N., & Canner, G. B. (2013). Mortgage market conditions and borrower outcomes: Evidence from the 2012 HMDA data and matched HMDA-credit record data. Federal Reserve Bulletin, 99(4). See, for example, Table 14.

¹⁶ Urban Institute, February 25, 2021. Credit Health During the COVID-19 Pandemic. Retrieved from <https://apps.urban.org/features/credit-health-during-pandemic/>.

populations with lower average income, higher proportion of people of color, and/or formerly red-lined communities.”¹⁷

Relatedly, The Federal Reserve Bank of New York has published research indicating that flood mapping itself has created unintended burdens on lower-income Americans. The report examines a problem in which “flood maps may have inadvertently clustered those households financially less able to bear the consequences of a disaster into areas that may still pose a significant flood risk.”¹⁸

Putting the two elements together, it becomes clear that socioeconomic conditions that generate lower credit-scores for communities of color and tether those communities to neighborhoods more vulnerable to climate-related disasters—meaning the current insurance crisis is having an outsize impact on the most financially vulnerable Americans.

For those homeowners receiving renewal notices with 20, 30, and 40 percent premium increases, especially those with fixed- or low-incomes, the affordability problem becomes indistinguishable from the availability problem we discuss below. For families who struggled to pay a \$200 per month premium, a sudden jump to \$280 per month can be devastating. As the price hikes get more and more extreme, the likelihood increases that people either slash their coverage by taking on more of the risk themselves through lower quality coverages, decide to go without coverage (if they do not have a mortgage), or find that they can no longer afford to own their home. As we discuss below, these options have their own consequences and reflect a public policy weakness around property insurance markets.

The insurance availability crisis exposes a need for more industry oversight

The second aspect of the homeowners insurance crisis facing consumers, one that seems to have earned even more of the headlines than the price increases, is the refusal of insurers to write new business in certain states and the complete withdrawal from some markets. The speed with which insurers have pulled out of regions and states under the banner of climate risk is understandably confusing and distressing to insurance policyholders. For two decades, insurers and their trade associations resisted requirements for insurers to perform and report a climate risk disclosure. But quite abruptly, after ignoring the growing climate risk for years, insurers are telling us that they now understand the scale of the risk and have no option but to withdraw without warning from neighborhoods they have covered for decades. Whether the decisions to walk away from markets comes in the form of media-focused announcements or quiet reconfigurations of internal underwriting rules, the problem of suddenly curbed sales plays out the same for homeowners, renters, and other property owners who cannot get the coverage that is required by their lender and needed for their own security.

Florida and California markets have gotten the most attention for insurers’ decisions, but residents of several other states, including Colorado, Georgia, and Louisiana, among others have also seen

¹⁷ Kousky, C. and French, K., 2022. Inclusive Insurance for Climate-Related Disasters: A Roadmap for the United States. Boston: Ceres.

¹⁸ Blikle, K. S., Engelman, K., Linnemann, T., & Santos, J. A. (2023). *Moving Out of a Flood Zone? That May Be Risky!* (No. 20230420b). Federal Reserve Bank of New York.

companies implement or attempt similar withdrawals or limitations on sales. In fact, a 2021 NAIC survey of homeowners found that,

More than one-third of respondents in Pacific (36%; Alaska, California, Hawaii, Oregon and Washington), West South Central (34%; Arkansas, Louisiana, Oklahoma and Texas) and Middle Atlantic (33%; New Jersey, New York and Pennsylvania) states reported challenges in getting or renewing homeowners insurance because of natural disasters.¹⁹

As California is so often highlighted, an important correction to the insurance industry's claims are in order. Insurers and their regulation-averse partners often claim that companies are reducing sales in California due to regulations that prevent companies from getting the rate increases they need. The facts, however, tell a much different story than the industry wants the public to believe. According to publicly available data,²⁰ between 2021 and August 2023:

- California home insurance companies requested 109 rate increases;
- 71 insurance companies were approved to increase rates to precisely the level they requested;
- 20 were approved to increase rates, but at a lower level than originally requested;
- 18 companies withdrew their rate hike requests; and
- On average, insurers requested rate hikes of 13.2% and received increases of 12.5%, excluding the withdrawn filings, meaning that insurers received 95% of the increases they sought.

Those increases were a boon to California insurers. Even though insurers are making the insurance market terribly difficult for many Californians, the state's homeowners have provided insurers with a market that has been significantly more profitable than the nation as a whole over the last three years for which data are available, according to National Association of Insurance Commissioners data.²¹ The pullback from California appears to be an act of political bullying in an effort to gain traction for the industry's deregulatory agenda – see the reinsurance pass-through discussion below, for example. While the target of this bullying may be regulators and policymakers, the victims are California homeowners who, like so many Americans living in increasingly exposed communities, are encountering an insurance market that is failing them.

In Florida, the other target of much attention, the declining availability of coverage has been more extreme. Floridians are facing complete withdrawals of brand name insurers such as Farmers (affecting a reported 100,000 policyholders²²) and AAA, and an estimated 15 insurers have stopped writing new policies over the past 18 months, according to the Insurance Information Institute, as

¹⁹ Groshong, L., Gerson, T., Czajkowski, J., & Zhang, J., July 2021. Extreme Weather and Property Insurance: Consumer Views. NAIC. Retrieved from https://content.naic.org/sites/default/files/CIPR%20Consumer%20property%20ins%20report%208-21_0.pdf.

²⁰ Rate Filing Approvals. California Department of Insurance. Retrieved from <https://www.insurance.ca.gov/0250-insurers/0800-rate-filings/0100-rate-filing-lists/rate-filing-approvals/index.cfm>.

²¹ Report on Profitability by Line by State in 2023. January 2023. NAIC. Retrieved from <https://content.naic.org/sites/default/files/publication-pbl-pb-profitability-line-state.pdf>.

²² Valinsky, Jordan, July 12, 2023. Farmers Insurance Pulls Out of Florida, Affecting 100,000 Policyholders. CNN. Retrieved from <https://www.cnn.com/2023/07/12/business/farmers-insurance-florida/index.html>.

reported by *The Washington Post*.²³ Additionally, the same reporting highlights, seven Florida insurers have become insolvent in that period. In Louisiana, another oft-noted market in freefall, 11 have become insolvent while 50 insurers have ceased offering policies in some parishes, according to the *Post*'s reporting.

When their voluntary market options shrink, consumers are often left with unsustainable alternatives. For some, shopping around may provide a standard market path to coverage, but shopping has not produced robust choices in the hardest hit regional markets. Too often, over the past year, we hear from homeowners and homebuyers seeing their private market options shrink to zero. Then, consumers face lower-quality, higher priced choices, or no choice at all.

The residual market: insurers of last resort

The most common option for those shut out of the voluntary insurance market²⁴ is the residual market, or insurer of last resort. These generally come in two forms: 1) the more common FAIR plans that are managed and backed by the insurers selling voluntary policies in a state and 2) the state-managed Citizens Insurance companies in Florida and Louisiana. About two-thirds of the states use one of these mechanisms for last-resort options, with Colorado creating a FAIR plan for its stressed homeowners market just this year. Even though these last-resort options tend to be very expensive, the policies generally provide more restricted coverage than many people need from their homeowners insurance. The policies typically do not cover theft, liability, or water damage, and they often cap the amount of coverage available for both rebuilding and for personal property. This means that, in addition to the weight of the high-cost FAIR plan or Citizens policies that homeowners must buy, consumers also need to shoulder the cost of a Difference in Conditions, or wraparound, policy to fill the gaps.

Nationally, about 2.2 million homes are covered by these insurers of last resort, with more than half of those homes covered by Florida's Citizens. There are an additional half million windstorm policies sold through the residual markets for people who cannot get hurricane coverage in the private market. All told, Americans spent over \$6 billion purchasing home and windstorm insurance through the state residual markets in 2022.²⁵ The number of homes covered by the residual market mechanisms has surged by 67% since 2019, and it appears poised to grow more. In Louisiana, Citizens issued 154,507 policies in 2022 compared to 47,093 in 2021.²⁶ In Florida, despite legislative policies promised to reduce the number of Floridians forced to rely on the state's Citizens Property Insurance Corporation, the state-backed insurer's 2023 operating budget predicts that by the end of this year it

²³ McDaniel, Justine, July 12, 2023. Citing Climate Change Risks, Farmers is Latest Insurer to Exit Florida. *Washington Post*. Retrieved from <https://www.washingtonpost.com/climate-environment/2023/07/12/farmers-insurance-leaves-florida/>.

²⁴ The "voluntary" market is the traditional private sector market for insurance where most people buy their coverage.

²⁵ A Firm Foundation: How Insurance Supports the Economy. Insurance Information Institute. Retrieved from <https://www.iii.org/publications/a-firm-foundation-how-insurance-supports-the-economy/a-50-state-commitment/residual-markets>.

²⁶ "Annual Statement for the Year 2022 of the Louisiana Citizens Property Insurance Corporation." Available at https://www.lacitizens.com/docs/default-source/financial-reports-and-statements/2022-management-discussion-and-analysis.pdf?sfvrsn=1676ee03_2#:~:text=Major%20events%20occurring%20in%202022%20for%20LCPIC%20were%3A&text=The%20number%20of%20policies%20issued,over%20the%20past%20two%20years.

will be serving an additional half million residents, with 1.7 million policyholders who turn to it because the private market has failed to provide an option.

Troubling as it is that so many Americans are forced into these last-resort programs, efforts to “depopulate” the residual market programs around the country create additional and unnecessary burdens on homeowners. In Florida, homeowners are not eligible if there is a policy available to them that is up to 20% more expensive than that state’s Citizens company would charge. In Louisiana, state law requires that the Citizens premium be set either 10% more expensive than the costliest premium in the local market or 10% higher than its own actuarial indication, whichever is costlier. (That state is now offering payment of more than \$50 million from taxpayers to insurers as part of their depopulation effort, but there are serious concerns that the money is flowing to financially unstable insurers that may not be able to survive a disaster even with their government subsidy.²⁷) The idea behind both states’ Citizens pricing rules is to prevent the last-resort insurer from competing with the private, voluntary market. In California, the same insurers forcing more customers into the FAIR plan by restricting their own sales tried to block, through litigation, the Insurance Commissioner’s orders to improve the quality of coverage in the FAIR Plan.

It is bad enough for consumers that private insurers will not offer the critically important homeowners insurance people need, but it makes no sense for the same carriers to litigate and lobby to make the last resort policies poorer quality than is needed and more expensive than is actuarially required. Put differently, if private insurers do not want to provide coverage in some communities, the policy response should focus on ensuring availability of quality and affordable options and not be spent worrying about the insurer-of-last resort being too competitive with the uninterested insurers.

Surplus lines insurance

Another market to which some homeowners turn when the voluntary homeowners insurance market fails to provide coverage is the non-admitted, or surplus lines, market. These policies do not face the same regulatory oversight that the much more common “admitted” home insurance companies receive and, importantly, they are not participants in state guarantee funds that serve as a claims-paying backstop if an insurer becomes insolvent. CFA is very concerned that, with the tightening of the home insurance market, more homeowners are being placed with surplus lines carriers without understanding the risk that there will be no financial protection if their insurer becomes insolvent and they have outstanding, unpaid claims for their home.

Force-placed insurance

Finally, some consumers who can no longer afford the premium hikes confronting them and cannot identify an affordable option find themselves canceling coverage. If they own their home outright, they now also own all the risk of loss, whether from a catastrophic storm or a burst pipe. For those with a mortgage, their lender will cover the home with a force-placed, sometimes called lender-placed, insurance policy, with the expensive premium added to their monthly mortgage payment.

²⁷ Finch II, M., March 20, 2023. Why Louisiana keeps turning to low-rated insurers to reduce Citizens’ policy load. NOLA.com. Retrieved from https://www.nola.com/news/why-louisiana-keeps-turning-to-low-rated-insurers-to-reduce-citizens-policy-load/article_dc7524fc-c523-11ed-a2ea-7b75224b7a76.amp.html

Often, these force-placed policies only pay claims to the lender – even though the premium is charged to the homeowner – so the consumer who couldn’t afford their own insurance is now stuck paying for a high-priced policy that provides them no benefit whatsoever.

Nonprofit organizations also face a property insurance availability crisis

Related to the withdrawals confronting Americans seeking to insure their homes, we briefly want to highlight the crisis facing many nonprofit organizations. These community serving groups rely on the commercial property insurance market for their coverage, but, for several years, there has been a diminishing number of carriers willing to sell insurance to nonprofits. Many nonprofits turn to a special insurance alternative known as Risk Retention Groups (RRGs) for their liability coverage, a mechanism created by federal legislation in response to the liability insurance crisis of the 1970s and 1980s. However, RRGs are currently prohibited from underwriting property insurance coverage. As nonprofits find themselves unable to obtain property insurance within the traditional commercial insurance market, we would urge an expansion of the risk retention law, as contemplated in the Nonprofit Property Protection Act, to allow the sale of property insurance to these organizations. CFA raised alarms about this problem and testified in support of this proposal in 2020, and, as the problem only gets worse in light of climate risk, we recognize and appreciate Chairman Brown’s attention to this aspect of the issue.

The hollowing out of homeowners insurance policies brings the crisis to those who still have voluntary market options

Before we move to discussing productive strategies for tackling the problem of climate risk for insurance markets, we need to recognize the unfairness and disutility of the current approach to this problem that many insurance companies are implementing around the country. This third element of the homeowners insurance crisis has received less attention than affordability and availability, but has broad impacts. Specifically, the insurance industry is reducing *its exposure* to climate-related risk by providing less coverage in their policies, rather than focusing on working with consumers and communities to reduce the actual risk and danger of disasters. A.M. Best’s News & Research Service’s recent reporting on Hanover Insurance’s strategy provides a good example:

Hanover Insurance Group Inc. is increasing and adding deductibles for perils and moving to actual cash values on homeowners’ roofs, while raising rates by strong double digits, President and Chief Executive Officer John “Jack” Roche said recently. Product changes will have a significant impact on reducing Hanover’s future catastrophe vulnerability, he predicted.²⁸

Even when insurers continue to sell coverage, they are slashing the value of the protection, hollowing it out, and increasing the deductibles homeowners face such that consumers are forced to retain more and more of the catastrophic risk associated with owning a home. It means that even for homeowners who can meet their lenders’ requirements for coverage, their insurance policies are not meeting what the family relies on to protect their most valuable asset.

²⁸ Kiriluk-Hill, R. August 21, 2023. Observers: Manufacturing Changes Can Improve Cat Losses for Insurers Stressed by Greater Storm Frequency. Bestwire.

As our colleagues at United Policyholders explain,

A glaring example is the trend of policy language that limits payouts for roof damage to the depreciated (Actual Cash) value of the roof at the time of the loss – and doesn't pay to fix the roof. The practical impact of this trend is that people of moderate to modest means can't properly fix their roofs when they're damaged in a tornado, hurricane, hailstorm or storm.²⁹

One area in which we have seen a particular weakening of coverage is for those policies covering manufactured and mobile homes. Most are now Actual Cash Value policies and those that still provide replacement coverage have rules that tend to limit the recovery to less than what is needed. To receive the full benefit, policies may require policyholders to "replace" in the current location, limiting their recovery if the park in which they resided does not reopen. Often, the HVAC systems are subject to contents coverage limits rather than the larger dwelling coverage limits, and foundations may not be covered by the insurer at all. In short, those living in mobile home communities are finding themselves bearing much more of the risk despite the fact that, as *Consumer Reports* recently reported, the policies can be twice as expensive as traditional homeowners insurance policies.³⁰

The insurance industry is also relying more on scoring algorithms, predictive models, and drone imaging of properties to reduce their exposure. These models and scores, which can cut people off from access to coverage, are not receiving the necessary regulatory scrutiny. Nor are there protections when insurers make underwriting and pricing decisions based on drone flyovers that may lead to misunderstood characteristics and incorrect assumptions about risk. It is difficult for homeowners to get redress when these techniques overestimate their risk level or they are not given the information or opportunities to address hazards that lower their score, and the result is higher premiums, more non-renewals, and refusals to sell coverage.

Another tack taken by the insurance industry to diminish its exposure to disaster claims has been to focus on limiting consumer rights to hold insurers accountable when they deny, delay, or underpay claims. Indeed, in Florida, just as reports were surfacing that many Hurricane Ian survivors were being defrauded by their home insurers, as the Washington Post later reported in grim detail,³¹ the Legislature and Governor adopted legislation to diminish the legal rights of mistreated policyholders. It was as though the ability of defrauded customers to demand justice from rogue insurers was having more of an impact than the billions of dollars of actual damage done when the Category 5 Hurricane Ian slammed into Florida, leaving 150 people dead, and tearing a swath of destruction across the state. Again, consumers are stuck with less protection, but the risk remains.

²⁹ Bach Talk. May 13, 2020. It's Time to Restore Insurance Safety Nets. United Policyholders. Retrieved from <https://uphelp.org/bach-talk-its-time-to-restore-insurance-safety-nets/>.

³⁰ Gill, L., August 18, 2023. How to Save on Insurance for a Manufactured Home. *Consumer Reports*. Retrieved from <https://www.consumerreports.org/money/homeowners-insurance/how-to-save-on-insurance-for-a-manufactured-home-a7960045232/>

³¹ Sacks, B., March 11, 2023. Insurers Slashed Hurricane Ian Payouts Far Below Damage Estimates, Documents and Insiders Reveal. *Washington Post*. Retrieved from <https://www.washingtonpost.com/climate-environment/2023/03/11/florida-insurance-claims-hurricane-ian/>.

This second tack to addressing the growing risk of disasters suggests a head-in-the-sand attitude about the realities of climate change. As our colleague, Birny Birnbaum of the Center for Economic Justice noted,

If you're not going to accept climate change as a reality, then you're left with making up false villains, like litigation, as the driver of higher rates... [Florida's recent tort overhaul is] not going to do anything to reduce insurance premiums because it's not doing anything to reduce claim costs.³²

The other approach by the industry – slashing coverage to reduce its own exposure – acknowledges climate change but only serves to reduce the amount that companies pay out without helping protect homeowners, renters, and other property owners who end up bearing that uncovered risk. Both tactics are misaligned with the real need Americans have for securing their homes and protecting their communities.

Safe housing is essential to individual, family, and community well-being. The increasing lack of affordable or quality home insurance and diminishing marketplace options are adding another layer of complications to the manifold housing problems Americans face. Driven by climate change and, as we discuss below, problems with the industry's structure and incentives, this home insurance crisis has cascading effects across the American economy. In order to address it, it is important to identify the causes and develop solutions that do more than just shift risk back to homeowners and taxpayers.

Drivers of the Crisis: Climate Change Increases Risk and Unregulated Reinsurance Costs Skyrocket

First, and foremost, we must invest in reducing climate-related risk

The problems facing homeowners, renters, and other property owners result from a confluence of several different problems. We must, however, begin with the indisputable fact that the cost of insuring property is rising because climate change is driving an increase in the risk of loss. Swiss Re, the world's second largest reinsurer, provided data and commentary to this effect in an August 2023 news release:³³

In the US, a series of severe thunderstorms prompted insured losses of USD 34 billion in the first half of 2023, the highest ever insured losses in a six-month period....

The effects of climate change are evident in increasingly extreme weather events. Jérôme Jean Haegeli, Swiss Re's Group Chief Economist, said: "The effects of climate change can already be seen in certain perils like heatwaves, droughts, floods and extreme precipitation. Besides the impact of climate change, land use planning in more exposed coastal and riverine areas, and urban sprawl into the wilderness, generate a hard-to-revert combination of high value

³² Vesoulis, A., August 23, 2023. Insurers Gave Ron DeSantis Millions. He Made It Harder to Sue Them. *Mother Jones*. Retrieved from <https://www.motherjones.com/politics/2023/08/florida-home-insurance-crisis-desantis/>.

³³ Severe Thunderstorms Account for Up to 70% of All Insured Natural Catastrophe Losses In First Half of 2023, Swiss Re Institute Estimates. August 9th, 2023. Swiss Re. Retrieved from <https://www.swissre.com/press-release/Severe-thunderstorms-account-for-up-to-70-of-all-insured-natural-catastrophe-losses-in-first-half-of-2023-Swiss-Re-Institute-estimates/cea79f3c-6486-41a8-9c6e-09df260efe30>.

exposure in higher risk environments. Protective measures need to be taken for insurance products to remain economical for such properties at high risk. It is high time to invest in more climate adaption."

As noted earlier, the discussions concerning this issue have too often focused on the insurance challenges in California and Florida. Real as the challenges are in both those states, this crisis must be recognized as a national threat; the growing risk is far more expansive than those two markets. In its news release, Swiss Re noted that Texas was the state most affected by the costly 2023 thunderstorms, and the Texas Department of Insurance reported that it anticipates the final insurance costs from the state's severe winter snowstorm event in February 2021 would reach \$11.2 billion.³⁴ That is just one state example; the insurance implications of climate change are widespread. Other recent evidence of the breadth of the problem include:

- the Maui fire, a tragedy of unimaginable scale;
- a violent and historic flood that shocked Vermont earlier this summer;
- a Virginia Beach tornado that damaged more than 100 homes this past spring³⁵ just weeks after a spate of nine EF3 tornadoes cut a path of damage from Arkansas to Delaware as climate change shifts or expands Tornado Alley eastward;³⁶
- derechos that raced through Iowa, South Dakota, Nebraska, Illinois, and Minnesota have been linked to climate change³⁷ causing expensive damage that has left despairing home and farm owners fighting to get their claims paid,³⁸ and
- the Colorado legislature's creation of a FAIR plan in that state as growing wildfire risk (and the after-effects of a catastrophic wildfire in 2021) has made coverage unavailable to many residents.

The increasingly widespread risk of disaster exacerbated by climate change must inform the thinking and policy orientation of any approach to addressing the insurance market. Insurers have long used stochastic methods – recognizing the randomness of catastrophic events – to help build into their underwriting and pricing the risk of occasional disasters. But as climate change increases the frequency and intensity of those disasters, even as the randomness remains, it is clear that the risk question is shifting from finding the right pricing for these events to whether or not private markets can even insure for climate-related disasters if nothing is done to limit the growth of risk.

³⁴ Insured Losses Resulting from the February 2021 Texas Winter Weather Event; Catastrophe Statistical Plan Data as of March 31, 2022. Retrieved from <https://www.tdi.texas.gov/reports/documents/feb2021-tx-winter-weather-summary-mar2022.pdf>.

³⁵ <https://www.13newsnow.com/article/news/local/mycity/virginia-beach/months-after-virginia-beach-tornado-demolition-crews-tear-down-most-severely-damaged-homes/291-d9f4fc98-8994-4c6b-8a7f-7f52f9314d4>

³⁶ Jacopo, J. April 4, 2023 Is Tornado Alley shifting due to climate change? Scientists explain how warming climate affects tornado activity. *ABC News*. Retrieved from <https://abcnews.go.com/US/tornado-alley-shifting-due-climate-change-scientists-explain/story?id=98347077>. See also, Nouri, N., & Devineni, N. (2022). Examining the changes in the spatial manifestation and the rate of arrival of large tornado outbreaks. *Environmental Research Communications*, 4(2), 021001.

³⁷ Smith, G., July 7, 2022. July 5 derecho intensity linked to climate change. Retrieved from <https://iowaenvironmentalfocus.org/2022/07/07/july-5-derecho-intensity-linked-to-climate-change/>

³⁸ Fry, E., August 9, 2021. 'Almost everyone is getting screwed': After climate disasters, homeowners find their battle with insurers is just beginning. *Fortune*. Retrieved from <https://fortune.com/2021/08/09/climate-change-natural-disasters-storms-wildfires-floods-home-insurance-claims-iowa-derecho/>

Limiting the growth in risk, then, should be a top priority.

Strategies for addressing the impact of increasing catastrophic risk that benefit all stakeholders in the market require a cooperative effort among insurers, consumers, and government. This will take several forms, which we present here as bullet points that we hope inspire further discussion and action:

- Government should provide increased funding for community level mitigation grants (such as the Building Resilient Infrastructure and Communities, or BRIC, grants offered by FEMA) and direct investment in pre-disaster prevention efforts (such as California's dramatically expanded wildfire prevention budget)
- States should expand the individual grant programs (such as Alabama's FORTIFIED program and South Carolina's Safe Home Program) that are helping homeowners upgrade their roof and make other home hardening improvements.
- To make them financially viable for consumers, mitigation grants should be made exempt from federal and state tax, as has been proposed this year by Senator Feinstein (S. 1953) and Representative LaMalfa (H.R. 4070).
- Insurers should be incentivizing safer homes by agreeing to underwrite and provide premium discounts for communities and individual consumers who take steps to protect their homes. In California, new rules require discounts when homeowners invest in wildfire defenses and risk reduction, and Nevada regulators have promised an expedited review for insurers when they submit filings to simply add discounts to for homeowners who take mitigation measures.
- Insurers should be required to conduct rigorous climate risk analysis and be given a timeline to stop insuring and investing in the oil and gas firms fueling climate change. It is unfair to consumers when companies seek profits from investments that hasten climate change while they demand rate hikes to pass along the costs of climate change to their policyholders. On the other hand, insurer investments that reduce climate change's impact or strengthen vulnerable communities' resilience in the wake of climate disasters should be encouraged.
- Standard insurance policies should be crafted to allow policyholders to rebuild to fortified building standards or replace their home by moving to a safer location without losing access to the full benefits of coverage; and
- Communities and property owners must also be investing in the effort to harden and protect properties from the increasing risks, which, as described above, should be supported through public programs and rewarded with insurance discounts.

Addressing the problems gathering where growing catastrophic risk and the insurance market meet also require another, broader level of public policy discussion. Namely, land use, property development, and housing policy decisions need to reflect the realities of climate change and be joined with this discussion. Otherwise, as insurance expert and reformer Harvey Rosenfield notes, we will continue to "allow[] insurance companies to make land use policy through rates."³⁹

³⁹ Rosenfield, H., September 5, 2023. Opinion: How home insurers are trying to bully California politicians into a disastrous bailout. *Los Angeles Times*. Retrieved from <https://www.latimes.com/opinion/story/2023-09-05/home-property-insurance-bailout-legislature-gavin-newsom-wildfires-california>

One element of this broader discussion, for example, will be the fact that high risk communities are often the only ones that are affordable to low- and moderate-income Americans who have either been priced out of less risky geographic locations or have, as a result of historic discrimination, been forced to live in the most vulnerable parts of cities and regions. Another point of consideration will be the distinction that could be made between property owners and renters who have been living in regions now deemed more vulnerable to climate change and those who are “coming to the risk” by buying or building homes in those regions despite current knowledge of the increased risk to the regions. All of this is to say that the discussion cannot stop with insurance alone; reducing our collective exposure to the increased risks wrought by climate change involve several aspects of public policy that deserve focus alongside, and in conjunction with, efforts to improve the state of the nation’s property insurance markets.

We conclude this part of our testimony with a hopeful note from testimony by the California Building Industry Association’s Dan Dunmoyer (himself the former head of the Personal Insurance Federation of California), who recently told California lawmakers:

We are the only building industry association in America that has supported the most strict fire hardening standards of any building industry in the US. Since 2010 - here’s a positive note on today’s hearing - since 2010, since we’ve been using the newest codes, not a single one of our master planned communities with regular mitigation have burnt.⁴⁰

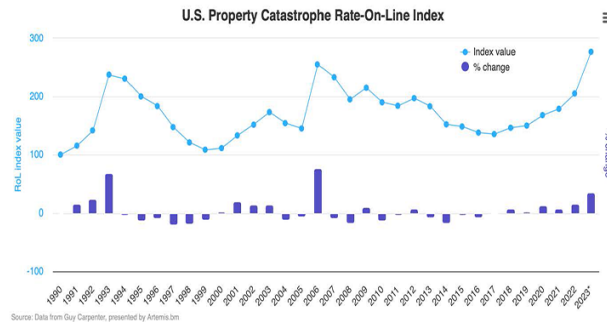
The unregulated, global reinsurance market is a central player in the crisis

Just as homeowners purchase insurance to offload their personal risk of loss, the insurers that take it on for a premium pass some of their policyholders’ risk on to reinsurance companies. This reinsurance serves as a hedge against the catastrophic losses that can accrue to insurers when disaster strikes and they cover homes in the affected communities. Unlike the “direct” insurance companies that sell property insurance to homeowners and others, which is regulated in various degrees by state law, reinsurance provided to those direct insurers is sold in an unregulated global market. Reinsurance undoubtedly enhances the ability of insurance companies to provide coverage, but reliance on the private reinsurance market can lead to a systemic affordability and availability crisis, as we are currently seeing.

According to the most recent data from Marsh McLennan subsidiary Guy Carpenter’s Rate-On-Line Index, the cost of property catastrophe reinsurance is about double the rate seen in 2017. The index indicates that reinsurance rates jumped 35% from January 2023 to July 2023 alone, such that insurers are confronting not only the sharpest reinsurance rate increases since 2006 – the year after Hurricanes Katrina, Rita, and Wilma devastated Florida and the Gulf Coast – they are now paying the highest rates for reinsurance since Guy Carpenter began its index in 1990, as shown in the Guy Carpenter U.S. Property Catastrophe Rate-On-Line Index graph below.⁴¹

⁴⁰ At 3:07:30 during hearing of Joint Hearing Insurance and Emergency Management Committee, Wednesday, June 14, 2023. Retrieved from <https://www.assembly.ca.gov/media/joint-hearing-insurance-and-emergency-management-committee-20230614>.

⁴¹ As reported and presented by Artemis, retrieved from <https://www.artemis.bm/us-property-cat-rate-on-line-index/>.



Not only has the cost of reinsurance skyrocketed for insurance companies, the capacity of the reinsurance market to back policies with severe disaster exposure has tightened up. Notably, reinsurance companies have been more proactive than direct insurers with respect to investigating, analyzing, and incorporating climate risk into their decision making. As the companies are unregulated and global in nature, being forward thinking about the realities of climate change and its risk has helped those firms protect their capital—especially with high interest rates offering better and lower risk returns on that capital—but that awareness has not generally created downstream benefits to American neighborhoods and property owners. Instead, reinsurers’ deep understanding of climate risk has helped to push many state insurance markets into an affordability and availability crisis.

While the escalating effects of climate change are a root cause of this dynamic, an example of the burden created by the failure of the reinsurance market to meet the needs of the American insurance market is found in an insurance line not usually considered to have an exposure to climate risk: earthquake insurance. In public presentations by the California Earthquake Authority (CEA), the CEA’s Chief Executive Officer Glenn Pomeroy has shown that the Authority’s reinsurance expenditures have increased by about 42.7% over the past five years even though its claims paying capacity has only increased by about 10.9% and its policy count is virtually unchanged. As of April 2023, more than 55 cents of every homeowners’ earthquake premium dollar was spent on the various reinsurance contracts the CEA uses. Moreover, in testimony before the CEA’s public governing body in January, Mr. Pomeroy highlighted “a decline in the amount of risk transfer [reinsurance] available to the CEA” and explained that it may not be able to meet its claims paying capacity target as a result, and the board has authorized a drastic cut to some of the coverages available to Californians. Earthquakes are not directly impacted by climate change, but the cost and availability of insurance needed to cover earthquake damage has been dramatically impacted by climate risk due to the CEA’s reliance on the private reinsurance market.

In public policy discussions about the impact of high reinsurance rates around the country, we have seen the insurance industry attempt to twist the problem into an argument for weakening California’s reinsurance-related and other consumer protections for homeowners and renters. Under California law, home insurers are generally allowed to hedge their insurance risk by purchasing as much private reinsurance as they determine to be appropriate, which is no different than other state markets.

However, in California, the insurers cannot pass the excess cost of that reinsurance on to their policyholders. They can use the premium they normally collect from customers to pay the premium charged by reinsurers (and because reinsurance reduces their exposure, the insurance companies do not need all the premium they originally collected), but when the unregulated reinsurance costs explode beyond the justified rates for insurance, insurance companies are not allowed to keep on raising rates on Californians to chase the high cost of global reinsurance.

Other states with climate-related catastrophic exposure, such as Florida, Louisiana, and Colorado, allow insurers to pass through these unregulated reinsurance costs, and that has only led to impossibly high consumer premiums *in addition* to major coverage reductions, underwriting tightening, and market withdrawals. The protections provided under California's voter-approved Proposition 103 that are targeted by insurers do not exist in other states and unprotected policyholders are worse for it. Florida's weak rate regulation and reinsurance pass-through, for example, has pushed homeowners' insurance premiums two to three times higher than they are in California, and Citizens covers 17% of the Florida market, compared to 3% for the California FAIR Plan, so there is no reason to claim that Florida's pass through of exorbitant reinsurance premiums to policyholders has made for a healthier market or better consumer outcomes. California homeowners, having been protected from the ravages of the reinsurance market, are, to be sure, facing some similar challenges plaguing other state markets. But giving insurers the ability to pass along exorbitant reinsurance costs has not led to market stability, which illustrates why the industry's goal of forcing individual homeowners to bear the burden of the volatile reinsurance market is no solution at all.

The fundamental problem regarding reinsurance lies with the fact that the global reinsurance companies, in an era of growing climate risk, do not provide a sufficient and reliable backstop for the American homeowners insurance market. Shifting the burden of that market from direct insurance companies (which, at the very least, have the scale and sophistication to negotiate with reinsurers if they know they need to try and control costs) to individual American homeowners who are desperate for coverage and cannot negotiate with insurance companies, let alone the reinsurers, is irresponsible. The focus should be on providing a more reliable backstop for the nation's insurance market.

Supplementing the private reinsurance market with a public reinsurance facility could help stabilize regional insurance markets and expand insurance coverage across the country

A meaningful public-private partnership is needed to address the serious market failures in property insurance markets. Such a partnership – as we see in many other developed countries – would provide some government support in exchange for insurers offering a meaningful product. The way forward is for the federal government to provide a mega-catastrophe reinsurance backstop in exchange for insurers offering, and states requiring insurers to offer, a meaningful insurance product – one that covers all the major perils without gaping holes. By capping insurers liability, the federal reinsurance program would provide the needed certainty of risk exposure to insurers.

After the September 11, 2011 terrorism attacks on the United States, it became clear, as reinsurance companies withdrew or reduced their terrorism backstop for the property insurance market, that the nature and threat of terrorism was too difficult to insure through the private commercial insurance and reinsurance markets alone. Congress enacted the Terrorism Risk Insurance Act (TRIA), in which

the United States provided significant levels of reinsurance coverage to insurance companies in exchange for the companies keeping terrorism coverage in their policies. This was a necessary, taxpayer-backed response to a looming insurance availability crisis for American businesses and other property owners.

Climate change is causing a similar insurability crisis, primarily felt by American homeowners, as property reinsurance premiums skyrocket and becomes less available. A TRIA-like solution should be developed as a key component for taking on this challenge. We would advocate for some changes to the structure of TRIA – specifically we believe property insurers should be required to pay some reasonable premium for the backing to protect taxpayers from carrying all of the burden – but the analogy is appropriate and the benefits could have an even wider impact on Americans.

We will not use this testimony to detail the shape such a program might take, but we offer a few overarching points to highlight what a well-constructed federal backstop for the American home insurance market could provide.

- A relatively low-cost reinsurance backing for qualifying insurance companies will allow insurers to have confidence in, and sustainable limits to, their exposure to catastrophic risk.
- Similar to TRIA's requirement to offer coverage, a condition for accessing the public reinsurance facility would be to sell meaningful, quality coverage to residents even in higher risk, but historically insured, communities.
- By serving the entire country, the public reinsurance pool would have a diversified book of exposures that makes it more sustainable and less expensive.
- A public reinsurer could require insurers to offer All-Risk policies – including windstorm, flood, and earthquake – which would dramatically increase the number of Americans with flood and earthquake protection and reduce reliance on the various residual markets and government insurers of those risks.⁴²
- By increasing the availability and quality of insurance coverage across the country – especially where disasters are uninsured or underinsured – fewer taxpayer resources will be needed for FEMA-funded post-disaster recovery.

A public reinsurance backstop does not need to entirely replace the reinsurance market to provide essential relief to the United States homeowners insurance market. But it is clear that private reinsurance contracts cannot alone support the risk transfer needs required to support fully functioning home insurance markets. When American businesses were suddenly facing the loss of the property insurance protection they needed because of a newly understood threat of terrorism, the federal government stepped in to stabilize the market and, in 2019, the Senate voted 71-23 to continue this important public backstop for the commercial property insurance market. Homeowners and renters across the country should be offered the same assurances and backing as the nation confronts the emergence of an even larger threat.

⁴² In a December 15, 2022 presentation to the National Association of Insurance Commissioners "C" Committee, the Center for Economic Justice's Birny Birnbaum proposed a similar idea focused on flood insurance: "Transform the NFIP from a direct provider of flood insurance to a TRIA-like reinsurer for mega-flooding events with state-specific attachment points."

Conclusion

Escalating premiums and reduced availability in American homeowners insurance markets are causing significant disruption and hardship in the lives of millions of homeowners and tenants who rely on insurance coverage as an essential (and often mandatory) tool of financial security. The central problem that we cannot ignore is that the risk of property loss is escalating as climate change endangers a wider swath of the country with each passing year. As a second, but unavoidable, concern, the reinsurance protection that provides an important backstop to the insurers selling property coverage has become too expensive to reasonably meet the needs of the home insurance market generally and climate-vulnerable regions in particular.

By focusing their strategy on eliminating their own exposure to climate change rather than on addressing the actual risks themselves, insurers have left American consumers in the bind that calls us to this hearing today. Effectively addressing these intersecting problems demands a holistic approach to climate risk and property insurability. That perspective requires public policy makers and regulators to focus on a range of strategies that will reduce the risks posed by climate change, strengthen communities, and use innovative public-private partnerships to create a sustainable insurance market that will yield affordable and quality property insurance coverage to Americans as we confront climate change together.

PREPARED STATEMENT OF MICHELLE NORRIS
EXECUTIVE VICE PRESIDENT OF EXTERNAL AFFAIRS AND STRATEGIC PARTNERSHIPS,
NATIONAL CHURCH RESIDENCES
SEPTEMBER 7, 2023



Testimony On
 "Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers"
 Before the
 Senate Banking Committee
 by
 Michelle Norris
 Executive Vice President of External Affairs and Strategic Initiatives,
 National Church Residences

September 7, 2023

Mr. Chairman, Ranking Member Scott, and Committee Members, thank you very much for the opportunity to speak with you today about challenges in the current property insurance market and how this is impacting the multifamily housing market, and particularly the affordable housing sector. My name is Michelle Norris, and I am the Executive Vice President of External Affairs and Strategic Initiatives at National Church Residences.

National Church Residences was founded on a Christian commitment to provide housing, health care and other services to older adults.¹ For nearly 60 years, our team of 2,323 staff members across 23 states has maintained that commitment and remains dedicated to providing affordable rental homes. Today we provide for more than 20,000 seniors—who earn on average just \$15,000 a year—affordable and healthy homes.² In providing homes for older adults nationwide, we are guided by our core values: (i) purposeful service where we are inspired to serve seniors so they can thrive in safe and loving homes; (ii) compassion for fostering a caring community of dignity and belonging; (iii) pursuing equity and inclusion to respect, value, and protect our employees, residents, and all whom we serve; (iv) commitment to the highest standards of integrity, quality, stewardship and safety; and (v) servant leadership by placing the needs of others first.³ By 2030, NCR will scale for mission impact, advancing better living options for 100,000 seniors.⁴

While I am testifying today on behalf of National Church Residences, my remarks largely reflect those of a growing coalition of multifamily housing providers and trade associations concerned by trends in the insurance market, including unprecedented and climbing insurance rates and reductions in coverage, and the significant impact this has on the rental housing market, from property owners and developers, to lenders and investors, and the families and older adults living in these homes. I am proud to be associated with these groups including Stewards of Affordable Housing for the Future (SAHF), a collaborative of twelve of the nation's leading nonprofit housing providers, where I currently serve as Board Chair; National

¹ National Church Residences, Living Our Mission, <https://www.nationalchurchresidences.org/about-us/mission-values/>.

² *Id.*

³ *Id.*

⁴ *Id.*

Affordable Housing Management Association where I chair the Regulatory Affairs Committee, and the National Multifamily Housing Council (NMHC), where National Church Residences is a member and which represents the nation's leading firms participating in the multifamily rental housing industry. I also see the impacts of insurance increases and coverage on affordable housing in my roles as a board member of the Corporation for Supportive Housing and as a member of LeadingAge.

The issue of insurance costs and coverage is so urgent that NMHC, along with the National Apartment Association, SAHF, NAHMA, the National Leased Housing Association, National Association of Home Builders and other allied housing trade associations, recently created an industry task force focused on finding consensus-driven solutions to the current challenges in the insurance market. Our primary objective is to be sure that all housing providers can meet long-term housing needs of our current and future residents now and in the years to come.

I would like to use my time here today to highlight what we know about property and casualty insurance trends and their impact on the multifamily housing industry in general, and on the affordable housing more specifically, and how increases in other insurance types are compounding these challenges. The volatility in the insurance market (not just property and casualty but other types including general liability and builders' risk) hinders the ability of housing providers to increase the nation's housing supply and worsens the existing housing affordability supply crisis.

Multifamily Housing Faces Unprecedented Property Insurance Rates

As of the first quarter of 2023, property insurance rates in the United States have increased for 22 consecutive quarters.⁵ Further, over the past three years, insurance premiums have been subject to unprecedented increases, with providers reporting annual premium increases ranging from 30 percent to 100 percent for affordable rental housing communities.⁶

What does this mean in practice? At National Church Residences, we have seen the property insurance liability for our affordable housing properties increase by over 400 percent over the last 6 years⁷. In recent years there has been little room left for negotiation — carriers have increased premiums and raised deductibles but adopted a 'take it or leave it' approach.

Our experience is not unique. Among our peers in the SAHF network, premiums have risen by 10-40 percent year over year in each of the last three years. The 2023 renewal year has been particularly

⁵ NMHC State of Multifamily Risk Survey & Report, June 2023, https://pages.nmhc.org/rs/676-UDD-714/images/NMHC_InsuranceReport_2023.pdf (the 2023 NMHC State of Multifamily Risk Survey & Report). This study covered 160 respondents that covered a broad range of actors in the housing ecosystem, including, but not limited to, owning 1.6 million units; managing 1.5 million units, with the average portfolio containing 11,292 owned units and 18,973 managed units respectively.⁵ The study also covered several types of housing classes, including Market-rate Class A; Market-Rate Class B, Market-Rate Class C; Subsidized/Affordable; Purpose-built Student Housing; and Age-Restricted (Seniors).

⁶ *Id.*

⁷ National Church Residences' portfolio grew by 20% during this six years but the insurance premiums outpaced this, growing from \$2.5 million to over \$13 million.

challenging where 30-40 percent increases in property insurance costs have been typical in the SAHF portfolio— even after controlling for changes in insured value connected to increases in property values.

In addition to rising premiums, we are seeing reduced coverage. Most SAHF members have seen minimum deductibles on property-level policies increased from \$10,000 to \$25,000 or even \$100,000. The National Church Residences 2024 renewal moved us to a \$100,000 deductible for the first time in our 60-year history. In isolation this may not sound dramatic, but across the portfolios of the 12 SAHF members, it represents more than \$29 million of uncovered risk. In many cases, this also conflicts with requirements imposed by lenders, investors and regulators. To address this, members must take additional policies or create layered coverages or reserve approaches that add additional expenses or risk defaulting on their financing.

We understand that these pressures impact owners and operators of market-rate and affordable rental homes. The impact on the affordable housing industry is especially acute because rents are limited, and even when they are adjusted under their programmatic requirements (which is often 2-3 years after the impact of insurance rate increases are felt) are simply not able to keep pace with these increases. This forces owners and operators of affordable housing communities to offset rising costs with reductions in services for residents and deferral of repairs and capital improvements thus threatening the long-term financial sustainability of the property and in some cases the nonprofit sponsor/owner.

Property Insurance Rates Largely Driven by Volatility in the Market

The instability of the property insurance market is due to several factors outlined further in this testimony, including the unprecedented frequency of natural disasters. Prior to 2017, the property insurance market was relatively stable in that large catastrophic events were relatively infrequent; thus, allowing insurers to fund and reserve capital as well as plan for the payment of claims for such catastrophes.⁸ Further, the market was relatively competitive and new capital continued to enter the broader market, which allowed for brokers to structure insurance programs in innovative ways that offered broad coverage terms with high insurance limits and low deductibles.⁹ However, starting around 2017, the property insurance market increasingly began to destabilize as more frequent natural catastrophes occurred, in conjunction with the inflationary impact of higher materials and labor costs as was the occurrence of more recent supply chain issues linked to the COVID-19 pandemic.¹⁰ More recently, insured losses arising from natural disasters were calculated at \$121 billion and almost \$115 billion in 2021 and 2022 respectively.¹¹ For National Church Residences, the highest insured losses in our 60 year history all occurred in 2021 and 2022.¹²

⁸ 2023 NMHC State of Multifamily Risk Survey & Report at 7.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Swiss Re Institute, Hurricane Ian drives natural catastrophe year-to-date insured losses to USD 115 billion, December 1, 2022, <https://www.swissre.com/press-release/Hurricane-Ian-drives-natural-catastrophe-year-to-date-insured-losses-to-USD-115-billion-Swiss-Re-Institute-estimates/2ab3ac681-6817-4862-8411-94f4b8385cee>.

¹² National Church Residences' highest insured property losses were in \$6.4 million (August 2021, Hurricane Ida); \$13 million for Grove City Manor (September 2022, Hurricane Ian); and \$2.3 million for 44 sites impacted (December 2022, Winter Storm Elliot).

Insured losses in 2022 were well above the ten-year average, with \$132 billion in total insured losses and \$125 billion in natural catastrophe insured losses.¹³ Marsh's May 2023 Market update indicates that the Quarter 1 2023 rate increases trended near 15 percent plus additional building cost increases (i.e. over-10 percent average), culminating in an over-25 percent premium increase.¹⁴

This instability has had a disproportionate impact on housing providers, developers and other stakeholders in the housing industry nationwide in that many insurers have simply ceased to underwrite multifamily or other similar property casualty policies broadly nationwide or in certain markets prone to natural disasters such as the Gulf Coast. For example, Florida has seen unprecedented impacts to its property insurance market due to the frequency of natural disasters. Following the occurrence of Hurricane Ian in Florida in September 2022, United Property & Casualty Insurance Company, a significant regional insurance carrier, became insolvent.¹⁵ At least 16 other Florida insurance carriers have become insolvent since 2020.

The situation in Florida has gotten so bad for insurance carriers that in July 2022, Demotech, the chief ratings firm in Florida, publicly announced that it was on the verge of downgrading more than a dozen insurance carriers in Florida. This action would have implicated the Fannie Mae and Freddie Mac insurance rating requirements requiring additional coverages, which provide that mortgage lenders must obtain additional insurance coverage on applicable properties if an applicable insurer's ratings fall below an "A" rating and if the homeowner is unable to immediately purchase "A" rated replacement policy.¹⁶ Accordingly, the Florida Office of Insurance Regulation announced earlier this year that the state would provide 100 percent backstop coverage of any claim left unpaid by a bankrupt insurer through the Florida Insurance Guaranty Association and the state-run Citizens Property Insurance Corp. The temporary program would be in effect until the end of hurricane season on November 30th.¹⁸ Specifically, this arrangement takes advantage of an exception to Fannie Mae and Freddie Mac's rules, by using Citizens, through an endorsement, to cover outstanding claims that would not be paid by the Florida Insurance Guaranty Association in case the insurer becomes insolvent and is put into receivership.¹⁹ In December 2022, Fannie Mae and Freddie Mac announced that they would accept Florida's insurance stabilization temporary solution given the fluctuations in the Florida insurance sector. However, both entities

¹³ *Id.* at 8.

¹⁴ *Id.*

¹⁵ Storm-Driven Insurer Insolvencies Stir State Actions: Explained, Bloomberg Law, December 29, 2022, <https://news.bloomberglaw.com/insurance/storm-driven-insurer-insolvencies-stir-state-actions-explained>.

¹⁶ Florida Creates Backstop to Protect Homeowners Insurance through Hurricane Season, Program Business, July 28, 2022, <https://programbusiness.com/news/florida-creates-backstop-protect-homeowners-insurance-through-hurricane-season/>.

¹⁷ Florida Ratings Crisis: Fannie and Freddie Agree to Accept Citizens-as-Backstop Plan, Insurance Journal, December 8, 2022, <https://www.insurancejournal.com/news/southeast/2022/12/08/698579.htm>.

¹⁸ Florida Creates Backstop to Protect Homeowners Insurance through Hurricane Season, Program Business, July 28, 2022, <https://programbusiness.com/news/florida-creates-backstop-protect-homeowners-insurance-through-hurricane-season/>.

¹⁹ Florida Ratings Crisis: Fannie and Freddie Agree to Accept Citizens-as-Backstop Plan, Insurance Journal, December 8, 2022, <https://www.insurancejournal.com/news/southeast/2022/12/08/698579.htm>.

specifically noted that their respective approval was specific only to Florida's arrangement, and other states would have to obtain approval for other state programs, as applicable.²⁰

While this short-term emergency solution is in place in Florida, the factors at play are not unique to that state. During a similar time period, at least 20 insurers in Louisiana have become insolvent or have left the state entirely.²¹ Further, public reporting indicates that states that are prone to natural disasters such as tornado convective storms, wildfires and flashfloods are feeling similar pressures to their respective property insurer markets.²² For example, major insurers such as State Farm, Allstate and AIG all no longer underwrite new homeowners' insurance policies in California due to the state's proximity to several natural disasters.²³

And while news of these carriers leaving markets rightly garners attention from the media and policymakers given their impact on single family homeowners, it's important to note that multifamily property owners of all types face the same, if not worse situation, on a regular basis where insurance carriers who have historically served the multifamily market decide to no longer offer coverage or exit the market/jurisdiction altogether.

We're seeing these impacts in real time: one SAHF member operating in Florida had their long-time carrier decline to provide coverage for wind related damage. The only coverage they could obtain was at a 1400% increase (227K) which would consume 56% of the property's operating income for wind coverage alone and more than 60% of income spent on insurance. This leaves insufficient funds for management, maintenance and other operational expenses and renders the property financially unsustainable.

Other nuances of the property insurance market that have led to higher insurance rates include (i) the expansion of the litigation funding industry and (ii) the unique dynamics of insurers' investment portfolio performance. The litigation funding industry refers to an approximately \$39 billion industry in which entities such as hedge funds, venture capital funds, and other undisclosed or shadow investors provide funding for commercial litigation that is paid back after insurance settlements related to the litigation are paid out.²⁴ Recent academic literature indicates that a prevalent pattern of the litigation funding industry is such undisclosed entities charging plaintiffs usurious rates in a manner that is similar in scope and risk

²⁰ *Id.*

²¹ More insurance companies pull out of Louisiana: 'We are in a crisis', Fox Business, January 16, 2023,

<https://www.foxbusiness.com/features/more-insurance-companies-pull-out-louisiana-crisis>.

²² Property market braced for heavy loss bill from Q1 convective storms, Inside P&C, April 11, 2023,

https://www.insidepandc.com/article/2bipkc88n43fsbdrir9s/industry-wide-property-market-braced-for-heavy-loss-bill-from-q1-convective-storms?utm_medium=social+media+organic&utm_source=linkedin&utm_campaign=ipc_contentshowcase_2023-04-11.

²³ Uninsurable America: Climate change hits the insurance industry, Axios, June 6, 2023,

<https://www.axios.com/2023/06/06/climate-change-homeowners-insurance-state-farm-california-florida>.

²⁴ How Litigation Funds Are Affecting Lawsuits Against Insurance Companies, Forbes Advisor, March 28, 2022,

<https://www.forbes.com/advisor/insurance/litigation-funds/>.

to payday lending.²⁵ The response by the insurance industry to the rise in the litigation funding industry has been to increase insurance rates and tighten coverage requirements, which in turn has resulted in higher rates for coverage holders in the ordinary course of business. For example, in 2020, AM Best, an insurance industry rating agency, downgraded “U.S. commercial general liability insurance segment, owing to unfavorable claims trends driven by social inflation and other factors such as third-party litigation financing.”²⁶

With respect to the nature of insurers’ investment portfolio performance, it is important to note that insurers typically hold significant investments in corporate bonds and structured securities like collateral loan obligations, residential mortgage-backed securities as well as consumer-backed securities, among others. Due to rising interest rates in connection with the inflationary nature of the current economy, the value of these investments has decreased over the last year to two years.²⁷ In fact, this is the exact phenomenon that led to bank failures earlier this year, including Silicon Valley Bank and Signature Bank. Further, rising interest rates have raised the cost of borrowing and doing business for insurance companies nationwide, which has only served to force such insurance companies to find other means of raising capital and offsetting such costs. The primary means by which insurance companies have offset such dynamics has been to raise insurance rates for coverage holders and new applicants, even when applicable risks and the total insurable value (TIV) of an applicable property have not materially increased.

Ultimately, we believe that the main causes of rising property insurance rates nationwide can be summed up through the following high-level factors—the impact of rising inflation and increased labor costs on replacement costs, depleted insurance market capacity constraints and policy limitations, frequency and severity of catastrophic storms, and historical changes in the reinsurance market. Inflation and higher costs as well as the lack of capacity in the insurance and reinsurance market are discussed in further detail below.

- *Impact of Rising Inflation on Replacement Costs Methodology*²⁸: Insurers use varying methodologies for determining a property’s insurable replacement costs (e.g., internal valuations, engaging third party services, relying on the expertise of construction/development teams, using industry standards such as Marshal and Swift, CoreLogic or the National Building Cost Manual, or reviewing guaranteed maximum price schedule of values and other metrics to determine corresponding costs), among other means. Rising inflation in recent years has led to higher construction/rebuilding costs, which ultimately impact replacement costs for properties insured under operational insurance programs. The net effect of this phenomenon is that insurers are raising insurance premiums and rates to account for significantly higher replacement costs. In sum,

²⁵ “Consumer Litigation Funding: Just Another Form of Pay Day Lending?”, Paige Marta Skiba & Jean Xiao, Vanderbilt University Law School.

²⁶ AM Best, Best’s Market Segment Report: AM Best Assigns Negative Outlook to US General Liability Insurance Market, December 15, 2020, <https://news.ambest.com/PR/PressContent.aspx?refnum=30201&altsrc=9>.

²⁷ “The Impact of Rising Rates on U.S. Insurer Investments,” National Association of Insurance Commissioners, February 2023, <https://content.naic.org/sites/default/files/capital-markets-special-reports-impact-of-rising-rates.pdf>.

²⁸ *Id.* at 9-10.

since March of 2020 when the COVID-19 pandemic began, construction costs have increased dramatically due to the economy's current inflationary environment, which has resulted in significant increases in the replacement value of current rental housing assets. When the TIV of multifamily housing assets increase, housing providers are forced to buy higher limits of insurance coverage, which causes premiums to increase.

- *Insurance Market Capacity Constraints and Policy Limitations*²⁹: Additional capital is exiting the market due to additional losses and corresponding increases in capital from reinsurers. Further, the reinsurance market is separately undergoing volatility as well. For example, as of January 2023, treaty reinsurance renewals have been seeing significant rate increases, together with reductions in capacity and increase in retentions for catastrophe capacity. Given new and more frequent catastrophic events and disasters in recent years, carrier risk models have been adversely affected, which has limited underwriting profitability. Accordingly, insurers are being forced to take such factors into account, which results in significant rate increases and limited capacity for coverage.

Broader Insurance Issues Impacting Multifamily Housing

While the focus of this hearing is on property insurance, we also wanted to highlight issues concerning other types of insurance coverage that compound challenges facing the multifamily housing industry. NMHC conducted a survey of its members in June 2023, and found unprecedented increases in rates for various types of insurance coverage:³⁰

Type of Insurance Coverage:	Average Reported Percent Increase From the Previous Year:	Maximum Reported Percent Increase From the Previous Year:
Property	26.4 percent	120 percent
Liability	14.7 percent	133 percent
Umbrella	16.6 percent	226 percent
Earthquake	14.9 percent	55 percent
Terrorism	6.2 percent	80 percent
Cyber	24.4 percent	220 percent
Crime	4.7 percent	25 percent

This data is consistent with other studies that have been issued in this space. For example, in May 2021, NDP Analytics issued data for 174 affordable and conventional housing providers that operated an aggregate of 2.6 million apartments, which data indicated that insurance premiums increased in 87 percent of policies renewed in 2020 and 2021.³¹ In addition, the data provided that more than 60 percent of umbrella policy premiums increased by more than 15 percent.³² Specifically, this survey provided a

²⁹ *Id.* at 12-14.

³⁰ *Id.*

³¹ NDP Analytics, Increased Insurance Costs for Housing Providers, May 2021, <https://www.irem.org/file%20library/globalnavigation/learning/tools/researchreports/housingproviderinsurancecostreportmay2021.pdf>.

³² *Id.*

number of highly-problematic results with respect to unprecedented increases in premiums for various lines of insurance coverage applicable to the real estate and affordable housing markets, as set forth below.

Relevant Statistics from NDP Analytics 2021 Survey:

- Across all lines of insurance, premiums increased for 87 percent of renewed policies in 2020 and 2021. Premium increases were most common for general umbrella/excess liability and commercial property insurance. These lines also had the highest magnitude increases. For general umbrella/excess liability insurance, premiums increased for 95 percent of policies including 26 percent with rate increases over 30 percent in 2020 and 2021. For commercial property insurance, premiums increased for 94 percent of policies including 14 percent with rate increases over 30 percent during the same period.³³
- For all lines of insurance, the share of 2020 and 2021 policy renewals with increased premiums was similar across regions, ranging from 85 percent for policies held by housing providers who primarily operate in the Northeast to 89 percent for those in the South. However, the magnitude of increases varied. Housing providers in the South reported higher premium increases than other regions. Increased premiums were most frequent among housing providers with insurance policies covering both affordable and conventional housing units (90 percent of policies had increased premiums), followed by housing providers with policies specific to affordable housing (86 percent), and those with policies specific to conventional housing (84 percent).³⁴
- For general umbrella/excess liability insurance, the share of 2020 and 2021 policy renewals with increased premiums ranged from 92 percent for housing providers primarily operating in the West and Midwest to 97 percent for those in the South. However, housing providers in the Northeast reported the highest premium increases with 16 percent increasing by over 100 percent. Housing providers with insurance policies that covered both affordable and conventional housing units reported the most general umbrella/excess liability premium increases (97 percent), compared to 93 percent for those with policies specific to affordable or conventional housing.³⁵
- For commercial property insurance, the share of 2020 and 2021 policy renewals with increased premiums ranged from 91 percent for housing providers operating primarily in the Northeast to 96 percent for those in the Midwest. The highest premium increases were reported by housing providers in the South and West. Housing providers with policies covering both affordable and conventional housing units reported the most commercial property premium increases (96 percent), compared to 93 percent for housing providers with policies specific to affordable housing and 92 percent for those with policies specific to conventional housing.³⁶

In the few years since this data was collected in 2021, inflation and other economic factors have only served to exacerbate the impacts of rising insurance costs for all housing stakeholders.

³³ *Id.* at 3.

³⁴ *Id.* at 4.

³⁵ *Id.* at 5.

³⁶ *Id.* at 6.

In addition, housing developers and builders have seen significant increases in the rates for builders' risk insurance policies.³⁷ Due to many of the factors described herein, insurers have generally tightened the underwriting criteria for builders' risk policies, which have led to significantly higher deductibles, warranty requirements, and premium amounts.³⁸ This trend has particularly been shown in jurisdictions and markets that are prone to natural disasters, such as the Gulf Coast area, among others. That said, "typical" underwriting criteria for builders' risk policies often make obtaining such policies increasingly challenging for applicable parties. This is because underwriting requirements typically include stringent requirements for costly security measures and other things, including, but not limited to, security fencing, video monitoring, and/or 24-hour security, all of which only adds to the costs associated with a typical project.

For general liability policies, recent trends indicate that many providers of such policies are declining to underwrite and issue insurance policies in affordable housing/subsidized housing communities and/or in jurisdictions and communities where there is a segment of subsidized housing located therein. While many of the factors described in this statement contribute to such pattern, one additional factor of note is the use of the "crime score" methodology by several insurance carriers, particularly in the multifamily housing space, who use such score as a metric to assess and price general liability risk. The "crime score" methodology is utilized by such insurance carriers to decline to underwrite and issue a policy with respect to a property located in an area that has a "crime score" above a specified "crime score" threshold. The immediate impact of use of such "crime score" methodology by insurance carriers is that there is a disproportionate and negative impact on multifamily and affordable housing growth because many affordable housing units are often located or proposed to be developed into communities that have higher "crime scores". There are also several issues in the actual methodology related to "crime scores", as raised in a study conducted by the Center for Real Estate Excellence at Virginia Tech, whereby many stakeholders are concerned that the use of such methodology not only disincentivizes insurers, developers, and other stakeholders from participating in the affordable housing market, but also serves as de-facto discriminatory redlining of affordable housing communities.³⁹

Insurance Rate Increases Negatively Impact Affordable Housing Supply

Affordable housing communities, including, but not limited to, those developed using the Low Income Housing Tax Credit (Housing Credit)) are income-restricted (i.e., typically eligible only for households earning more than 60 percent of area median income (AMI)) and rent-restricted (i.e., typically where programmatic rents are established so that the aggregate housing costs do not exceed 30 percent of a household's income or of an income limit). These restrictions mean that providers of affordable rental homes typically cannot pass through insurance rate increases to their residents via rent increases. Instead, increased costs mean reduced cash-flow at properties or the depletion of property reserves. Without addressing these cost increases, affordable housing providers could be forced to defer maintenance plans

³⁷ Carriers Shift More Risk Onto Builders For Multi-Family Frame Projects, CRC Group, 2022, https://www.crcgroup.com/Portals/34/Flvers/Tools-Intel/Builders%20Risk%20SOM_Final.pdf?ver=2022-07-29-075543-540.

³⁸ *Id.*

³⁹ Roberts, Jeffrey G., "10 Reasons to Carefully Consider How Insurance Carriers Use Crime Scores to Assess Risk in the Affordable Housing Industry".

and services, and reduce services for residents or in the most extreme cases forgo coverage triggering a default on debt.

Ultimately, affordable housing providers may be forced to consider whether to opt-out from participation in the affordable housing market if insurance and other operating costs continue to outpace allowable rent.

Preservation of affordable housing also becomes a challenge as rising insurance costs and higher operating costs mean lower Net Operating Income (NOI). Lower NOI, means you can borrow less. It also leaves less for return on equity investments. If you can borrow less or attract less investment, it becomes more difficult to finance the construction or preservation of affordable rental homes.

For example, one of our fellow affordable housing organizations in the Pacific Northwest saw a \$495,000 reduction in the loan proceeds (what they could borrow) due to increases in insurance premiums between underwriting and final closing of a property recently. For transactions already in development, owners, funders and government partners are scrambling to close these gaps and protect existing investments. However, for future transactions affordable housing developers must ask themselves whether they can accept the risk of these funding gaps that jeopardize the completion of new rental units. For nonprofits, like National Church Residences, that regularly reinvest proceeds into mission, we simply cannot afford to continually forgo or defer development fees or contribute additional funds to these transactions.

Rising insurance rates have contributed to this untenable situation not only because of the added costs, but also due to the unique nature of insurance coverage and requirements that are imposed on housing providers. While housing providers and developers can take steps to reduce certain operating expenses (e.g., lowering utility expenses through investments in energy efficient designs) there are few to no options to mitigate the costs of rising insurance premiums. Private-sector and public-sector lenders, ranging from private sector banks and investors to State Housing Finance Agencies, the Department of Housing and Urban Development (HUD), and the Department of Agriculture, among others, typically require housing developers serving as their borrowers to obtain and maintain property casualty and general liability insurance policies as a condition to receiving financing for the duration of the loan. Housing providers and developers do not typically have alternative options for obtaining and maintaining such insurance policies; thus, they are stuck having to pay for these policies even if the rising costs are well-above standard metrics such as inflation, the consumer price index, or others.

Within the current economic climate of persistent inflation, housing developers and providers are already dealing with supply chain disruptions and increased construction, development, operation, maintenance, and other costs that are making the construction and operation of affordable housing units increasingly untenable. Unprecedented rises in property insurance rates have further disincentivized housing providers from participating in the affordable housing market. This ultimately impacts not only housing providers, but also the existing residents they serve as well as everyday Americans who are desperate for affordable housing opportunities and need the supply of affordable housing units to increase accordingly. As insurance rates rise or availability for affordable coverage declines, housing providers are left with no

choice but to avoid or remove themselves from the affordable housing market, or in certain cases, raise rents or lower services, all of which is significantly detrimental to renters nationwide who are in a sustained need for affordable housing opportunities.

Property Insurance Challenges Require Short-Term and Long-Term Policy Solutions

As the Committee and other policymakers evaluate ways to stabilize the insurance markets and ensure housing providers and the broader consumer market has access to affordable and attainable coverage to mitigate property and other risks, we believe there is a need for both short-term and long-term policy solutions.

- In the short-term, HUD and other federal agencies that provide funding for properties that families and seniors with low incomes call home may need to rethink existing insurance requirements and provide increased flexibility and additional funding to property owners to account for the real-world challenges they face in securing affordable insurance coverage. There are several administrative or regulatory actions that are being discussed among stakeholders and policymakers that could provide some relief include, but are not limited to, encouraging HUD to update its Operating Cost Adjustment Factor (OCAF) moving forward to account for property level insurance increases; require HUD, the Federal Housing Finance Agency (FHFA), USDA (United States Department of Agriculture) Rural Housing and other federal stakeholders to review and update lender insurance requirements; providing Internal Revenue Service (IRS) guidance that allows developers to capitalize a pre-defined amount of insurance premiums in eligible basis under the Housing and allow for expenses related to insurance procurement and risk mitigation activities that improve property resilience to be capitalized and included in the eligible basis. These administrative actions have the potential to provide limited, but important, short-term relief to housing providers operating subsidized affordable housing.
- In the long-term, a greater level of intervention by the federal government in the insurance markets may be necessary given the current market failures stemming from the private market being unable or unwilling to offer property (and other lines) of coverage to property owners of all types. SAHF, NMHC, NAHMA, NAA and other stakeholders in the real estate industry are early in its coalition work to identify possible, long-term solutions. Possibilities could include, among other things, federal support for the property insurance market. Like the absence of accessible and affordable private sector insurance solutions that led to the creation of the National Flood Insurance Program (NFIP) and the Terrorism Risk Insurance Act (TRIA), today's lack of capacity in the insurance and reinsurance markets is reaching crisis levels and has begun to raise serious alarm across the entire financial system with trillions of dollars in uncovered or uncoverable risk across real estate.

With no end in sight to climate-driven catastrophic disasters, Congress and the federal government must also do more to ensure all types of affordable, senior and middle-income housing properties are eligible and can benefit from pre-disaster mitigation funding and support. Resiliency is one way to improve the insurability of our affordable housing communities but that can only be realized with the support of

Congress. For too long, low-income rental communities have not been prioritized for existing mitigation funding and too often guidance or other federal efforts have been unrealistic or cost-prohibitive for most non-profit or affordable housing operators who do not have the substantial required resources to engage in this important work on their own.

The reality facing rental housing operators, absent a multi-pronged federal response in these areas, will deteriorate further and only exacerbate the challenges we already have in providing housing that is affordable to those in need.

We need to act now. Our country already has a shortage of 7.3 million homes affordable to the lowest income people – we cannot afford to jeopardize existing rental homes or slow the creation of new ones by allowing this unsustainable landscape to continue.

Thank you for your efforts to explore and address these significant challenges. I am honored to have had this opportunity to testify today. As the Committee and Congress consider various proposals in this space, we stand ready to work with all stakeholders and policymakers to further these efforts in an effective manner.

PREPARED STATEMENT OF JERRY THEODOROU
POLICY DIRECTOR, FINANCE, INSURANCE AND TRADE, THE R STREET INSTITUTE
SEPTEMBER 7, 2023

**PERSPECTIVES ON CHALLENGES IN THE PROPERTY INSURANCE MARKET
AND THE IMPACT ON CONSUMERS**

Chairman Brown, Ranking Member Scott and members of the Committee:

Thank you for holding today's hearing, titled "Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers," and for the invitation to testify. My name is Jerry Theodorou. I am the director of the R Street Institute's (R Street) Finance, Insurance and Trade program. I have worked as an analyst of the property and casualty insurance industry for the past 15 years in my current position at R Street and at Conning, a Connecticut-based asset management and insurance research firm. My research, publications, public presentations and congressional testimonies focus on the impact of market forces and external drivers on insurers, policyholders and the economy.

Today's hearing is timely because ill-advised government intervention in some insurance markets has contributed to unhealthy disruption of the markets. Intervention in the form of price controls and monopolistic markets has led to reduced availability of coverage and higher costs for insurance buyers and has weakened competitive forces, a principle underscored in a quote by noted economist Thomas Sowell: "Competition does a much more effective job than government at protecting consumers."¹

The competition imperative holds for the insurance industry, as it does for other industries. Competition in the property and casualty (P&C) insurance industry is a force that contributes to insurance coverage being more available and affordable for insurance buyers. The U.S. P&C insurance industry is highly competitive, with 2,651 P&C insurers operating in the country.² Because insurance is regulated at the state level rather than the federal level, the degree of competitiveness varies from state to state. Close to 900 insurers provide personal auto

¹ Maddox Locher, "30 Priceless Quotes from the Great Thomas Sowell," *Fee Stories*, Feb. 28, 2023, https://fee.org/articles/30-priceless-quotes-from-the-great-thomas-sowell/?gclid=Cj0KCQjw9McNbhCYARIsAB1WQVXBVNnAmsnQH4jPKP7WlkwQVbC3bdDenQqddL-Y4TPnlulMAXpsrswaAndiEALw_wcB.
² Federal Insurance Office, *Annual Report on the Insurance Industry*, U.S. Dept. of the Treasury, September 2022, <https://home.treasury.gov/system/files/311/2022%20Federal%20Insurance%20Office%20Annual%20Report%20on%20the%20Insurance%20Industry%20%281%29.pdf>.

insurance—the largest line of business. There is no state with fewer than 50 auto insurers operating within its borders. Fully, 45 states have at least 100 insurers offering coverage for private vehicles.³

Measuring Competitiveness

The Herfindahl-Hirschman index (HHI) is commonly used to measure the competitiveness of an industry. It is calculated by adding the squares of the market shares of all sellers in the market. For example, if a market has only one seller, its market share is 100 percent and the HHI is 10,000 (100 x 100). If a market has 20 sellers, each with 5 percent of the market, the HHI is 500 (20 x 25). If the HHI is higher than 1,800, the market is considered by the Department of Justice—in accordance with longstanding policy—to be highly concentrated. If it is between 1,000 and 1,800, it is moderately concentrated. If the HHI is below 1,000, the market is considered competitive, not concentrated.⁴ The lower the HHI, the more competitive the market.

Overall, the P&C insurance industry is not concentrated. On the contrary, it is highly competitive, with an HHI of 297.⁵ For homeowners insurance, the average HHI is 621. There are 30 states where the HHI for homeowners insurance is less than 1,000, and 20 states where the HHI is greater than 1,000. The 10 largest P&C insurers have 50.2 percent market share, and the top 25 have 70.2 percent market share.

Analysis of homeowners insurance performance on a state-by-state basis supports the finding that markets are healthier where there is more competition. The data shown below reveals that the 10 states with the poorest financial performance in the past 10 years were more concentrated than the 10 states with the best performance in the past decade. The 10 states with the poorest performance had an average HHI of 1,074. The top four insurers had a 54.3 percent market share of homeowners insurance business in those states. By contrast, the 10 states with the best

³ Ibid.

⁴ Chris Adams, “What is the Herfindahl-Hirschman Index and why would you use it?,” Modern Analyst, last accessed Sept. 3, 2023. <https://www.modernanalyst.com/Careers/InterviewQuestions/tabid/128/ID/1003/What-is-the-Herfindahl-Hirschman-Index-HHI-and-why-would-you-use-it.aspx>.

⁵ “2021 Competition Database Report,” NAIC, January 2023. <https://content.naic.org/sites/default/files/publication-cdr-im-competition-database-report.pdf>.

performance in the past 10 years had an average HHI of 772. The four insurers with the largest market share in those states had a collective market share of 44.8 percent.

	HHI for Homeowners Insurance	Top 4 Market Share	Return*
Colorado	1,066	55.4%	-12.7%
Louisiana	1,001	50.1%	-11.3%
Nebraska	1,042	52.4%	-9.6%
South Dakota	836	46.4%	-7.6%
Iowa	1,056	54.2%	-7.0%
Montana	1,206	61.0%	-6.9%
Wyoming	1,230	63.5%	-2.8%
Illinois	1,511	61.4%	0.5%
California	862	47.0%	0.8%
Idaho	932	51.2%	3.3%
Oregon	1,119	58.3%	3.7%
Georgia	1,116	56.8%	3.8%
Texas	829	51.0%	4.6%
Minnesota	1,144	55.5%	4.9%
Puerto Rico	3,833	96.5%	5.1%
Maryland	966	51.9%	6.5%
National	621	40.3%	7.0%
Kentucky	1,282	62.2%	7.2%
Oklahoma	1,381	63.4%	7.3%
Arkansas	1,168	55.6%	7.8%
New Mexico	1,117	59.5%	8.0%
Utah	800	46.4%	8.3%
Tennessee	1,136	56.8%	8.7%
Indiana	965	49.5%	8.9%
Florida	451	32.5%	9.1%
West Virginia	1,307	61.4%	9.2%
Alabama	1,243	61.4%	9.4%
North Carolina	723	46.3%	10.2%
Michigan	930	53.6%	10.3%
New Jersey	608	40.0%	10.5%
Pennsylvania	923	53.8%	10.7%
Missouri	1,136	55.7%	11.2%

Mississippi	1,109	54.6%	11.7%
Ohio	858	46.9%	11.7%
Washington	961	53.1%	11.8%
Arizona	854	48.4%	12.1%
New York	769	49.0%	12.8%
Virginia	968	54.7%	13.2%
Nevada	909	50.8%	13.6%
Connecticut	494	33.4%	14.8%
Delaware	1,084	54.3%	15.2%
Wisconsin	957	48.8%	15.4%
Rhode Island	689	42.5%	15.6%
Kansas	994	52.4%	16.4%
North Dakota	790	46.9%	16.7%
Massachusetts	523	34.0%	16.9%
Vermont	686	43.0%	17.2%
Alaska	1,983	80.0%	17.8%
South Carolina	741	46.0%	18.7%
New Hampshire	625	40.9%	18.9%
Maine	632	39.4%	20.8%
Hawaii	1,672	63.3%	27.2%

*“Return” is “return on net worth,” defined by the NAIC as an approximation of total profit after taxes divided by allocated capital and surplus, adjusted to place it on a generally accepted accounting principles basis.

Source: “2021 Competition Database Report,” NAIC, January 2023.

<https://content.naic.org/sites/default/files/publication-cdr-im-competition-database-report.pdf>.

Residual Markets

Another way to evaluate the competitiveness of insurance markets is to examine the size of the residual market compared to the size of the total insurance market in the state. A residual market is a state-sponsored insurance association for customers who seek to buy insurance but are unable to obtain it in the standard market. Reasons why customers may not be able to obtain coverage in the standard market include poor loss history or because their property may have unusually large risk exposure, such as being located next to a dynamite factory. Such residual market vehicles are known as “FAIR” plans, where FAIR stands for Fair Access to Insurance Requirements. The median amount of business in FAIR plans as a percentage of overall premium across states is 0.24 percent, which means that less than a quarter of 1 percent of

homeowners insurance premium in individual states is placed in FAIR plans.⁶ There are, however, some extreme outliers like Massachusetts, where FAIR plans account for as much as 6 percent of the state's premium.⁷ The Massachusetts FAIR Plan has shrunk significantly over the past decade after accounting for close to 15 percent of the state's automobile and homeowners insurance in 2010. One of the reasons Massachusetts' FAIR plan is so large is because its coverages and rates are competitive with the admitted market.⁸

	FAIR plan earned premium as % of total market, property lines, average past 5 years
California	1.17
Florida	4.50
Louisiana	1.32
Massachusetts	6.11
North Carolina	2.78
Rhode Island	3.17

Source: "2023 PIPSO Products," Property Insurance Plans Service Office, last accessed Sept. 3, 2023. <https://pipso.com/publications>.

Although the P&C insurance market is generally highly competitive, restrictive regulations reduce competitiveness in some states, such as California and North Carolina.

California

California's insurance landscape exemplifies a market with restrictive price controls so disruptive that many insurers are curtailing their business operations in the Golden State or outright leaving the state.⁹ California is one of six states that prohibits insurance companies from changing their rates unless the state's insurance regulatory body first approves the requested rate

⁶ "2023 PIPSO Products," Property Insurance Plans Service Office, last accessed Sept. 3, 2023. <https://pipso.com/publications>.

⁷ Joseph G. Murphy, *2010 Annual Report*, Commonwealth of Massachusetts Division of Insurance, last accessed Sept. 3, 2023. <https://www.mass.gov/doc/2010-doi-annual-report/download>.

⁸ Ibid.

⁹ Don Thompson and the Associated Press, "California to auto insurers: No rate increases, it's still a pandemic. Business claims a 'market crisis looming,'" *Fortune*, Sept. 17, 2022. <https://fortune.com/2022/09/27/california-auto-insurance-no-rate-increases-geico-all-state-kemper-liberty-mutual-state-farm-ricardo-lara>.

change.¹⁰ These restrictive price controls prevent goods and services from reaching the free-market price and introduce costs through government bureaucracy and inefficient allocation of goods and services.¹¹

California's burdensome insurance price controls have led to contraction in competition and have catalyzed the exodus of insurers operating in the state. California's P&C insurance market is the nation's largest, with the state's \$104.9 billion in direct premium written representing 12.0 percent of the country's \$876.2 billion.¹² In the past year, several insurance companies have announced that they will not write new California homeowners insurance.¹³ Others have taken more drastic steps and are not renewing existing policies upon expiration.

The exodus of insurers from California has been driven by policies that have prevented insurers from operating their business in the state soundly. Most of the handicapping measures originated with the passage of Proposition 103 in 1988. Proposition 103 was introduced by consumer advocate Harvey Rosenfield. Mr. Rosenfield employed some flamboyant tactics to campaign for the passage of Proposition 103, including a 1987 publicity stunt where he "attempted to deliver a truckload of cow manure" to the Los Angeles headquarters of State Farm Insurance.¹⁴ The proposition passed. Among its provisions are:¹⁵

1. An administrative requirement for insurance rate changes to be approved by the Department of Insurance (DOI) prior to implementation and for decisions to be made within 60 days of the filing. But prior to 60 days, the DOI requires the time limit to be

¹⁰ Jerry Theodorou, "2022 Insurance Regulation Report Card," *R Street Policy Study* No. 272, December 2022. <https://www.rstreet.org/wp-content/uploads/2023/01/r-street-policy-study-no-272-REV2.pdf>.

¹¹ Christopher J. Neely, "Why Price Controls Should Stay in the History Books," Federal Reserve Bank of St. Louis, March 24, 2022. <https://www.stlouisfed.org/publications/regional-economist/2022/mar/why-price-controls-should-stay-history-books#:~:text=Prices%20allocate%20scarce%20resources, costs%20imposed%20by%20price%20controls>.

¹² S&P Global Capital IQ Pro. <https://www.capitaliq.spglobal.com/web/client?auth=inherent#statIndustry/pcIndustry?KeyStatEntity=E61858CD-F1F9-42BD-8848-8CB6B42ED2FE>.

¹³ Steve Hallo, "More insurers exiting California's home insurance market," *Insurance Journal*, Aug. 16, 2023. <https://www.propertycasualty360.com/2023/08/16/more-insurers-exiting-californias-insurance-market>.

¹⁴ Frederick M. Muir, "Prop. 103 Author, Nader disciple: Rosenfield: Hero to Some, Troublemaker to Others," *Los Angeles Times*, Dec. 3, 1988. <https://www.latimes.com/archives/la-xpm-1988-12-03-mn-931-story.html>.

¹⁵ Steven Greenhut, "California's Insurance Market Is Burning Down," *The American Spectator*, May 31, 2023. <https://spectator.org/californias-insurance-market-is-burning-down>.

waived, so action on the filing can be delayed indefinitely. If the insurer refuses to waive the 60-day provision, there must be a hearing, which can take a year.¹⁶

2. A 20 percent rebate on automobile insurance premiums.
3. The introduction of public “intervenor” to challenge requests for rate increases greater than 7 percent.¹⁷ It is noted that the intervenor used most often is Consumer Watchdog, an organization founded by Mr. Rosenfield.¹⁸ California’s intervenor process introduces consumer participation in the administrative process for setting insurance rates if they are deemed excessive or inadequate.¹⁹

Additional ways the California Insurance Department has straitjacketed insurers include prohibiting them from incorporating reinsurance cost into ratemaking and preventing them from taking into account recent climate and weather patterns in their risk modeling.²⁰ As a result of these restrictive regulations, many national insurers have curtailed their California business writing.²¹ Even Farmers Insurance, founded and headquartered in California, announced in July 2023 that it would no longer write new homeowners business in the state.²²

Florida and Louisiana

In contrast to California’s restrictive price controls, current conditions in homeowners insurance markets in Florida and Louisiana are driven by litigation and natural catastrophes. Prior to March 24, 2023, when comprehensive tort reform was signed into law in Florida, the homeowners

¹⁶ Brett Horoff, “California PPA Rate Filing Moratorium: What Should Insurers Do?,” Perr & Knight, June 30, 2022. <https://www.perrknight.com/2022/06/30/ca-ppa-rate-filing-moratorium>.

¹⁷ Ibid.

¹⁸ “Our Team,” Consumer Watchdog, last accessed Sept. 3, 2023. <https://consumerwatchdog.org/our-team>.

¹⁹ Tom Jacobs and Kris Elaine Figuracion, “California has hit brakes on private auto rate hikes since start of pandemic,” S&P Global Market Intelligence, Nov. 3, 2021. <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/california-has-hit-brakes-on-private-auto-rate-hikes-since-start-of-pandemic-67299444>.

²⁰ Thomas Frank, “Calif. scared off its biggest insurer. More could follow,” *E&E News*, May 31, 2023. <https://www.eenews.net/articles/calif-scared-off-its-biggest-insurer-more-could-follow>.

²¹ Breanne Deppisch, “Home insurers pull out of California thanks to wildfires and state regulations,” *Washington Examiner*, June 1, 2023. <https://www.washingtonexaminer.com/policy/energy-environment/insurers-pull-out-california-wildfires-regulations>.

²² Matthew Kupfer, “After State Farm’s and Allstate’s Exits, Farmers Insurance Sets Limits in California,” *The San Francisco Standard*, July 7, 2023. <https://sfstandard.com/2023/07/07/farmers-insurance-state-farm-allstate-california>.

insurance market was plagued by out-of-control meritless litigation.²³ The magnitude of the litigation abuse problem is starkly visible in the statistic that Florida accounts for 9 percent of the nation's homeowners insurance policies, but is responsible for 79 percent of the entire country's homeowner insurance litigation.²⁴ The tort reform measures are expected to restore the Florida market to a healthier position. However, the improvements will take time to materialize into rate reductions because in the days prior to Florida Governor Ron DeSantis signing tort reform into law, Florida plaintiff attorneys filed approximately 280,000 property insurance lawsuits—an action that will cause severe delays in normal court functioning.²⁵

Although Louisiana's insurance market is often compared to Florida's, the homeowners markets in the two states differ structurally. In Florida, the largest homeowners insurers are single-state Florida-only insurers. The top five Florida homeowners insurers in decreasing size (by premium) order are Citizens Property Insurance Co. of Florida, Universal, State Farm, Florida Peninsula and Tower Hill.²⁶ By contrast, four of the five largest homeowners insurers in Louisiana (State Farm, Allstate, Liberty Mutual, USAA) are national carriers, which means that heavy Louisiana losses may not cripple the state's largest insurers. At a large national insurer, geographical diversification means poor results in one state can be offset by favorable results in other states, whereas a single-state insurer's financial health is more vulnerable to adverse loss trends in its state.

Rate Bureaus

Until the mid-20th century, insurers were members of statistical rating bureaus that required them to use the bureau's rates and policy wordings. The rating bureaus were responsible for

²³ "Tort Reform Overhauls Florida's Litigation Landscape," Greenberg Traurig, April 20, 2023. <https://www.gtlaw.com/en/insights/2023/4/tort-reform-overhauls-floridas-litigation-landscape#:~:text=Florida%20Governor%20Ron%20DeSantis%20signed,law%20on%20March%2024%2C%202023>.

²⁴ "What They Are Saying: Florida Property Insurance Reforms," Florida Office of Insurance Regulation, May 24, 2022. <https://foir.com/home/2022/05/24/what-they-are-saying-florida-property-insurance-reforms>.

²⁵ Katherine Kallergis, "More sticker shock ahead as Florida's property insurance crisis worsens," *The Real Deal*, July 26, 2023. <https://therealdeal.com/miami/2023/07/26/more-sticker-shock-ahead-as-floridas-property-insurance-crisis-worsens>.

²⁶ S&P Global Capital IQ Pro. <https://www.capitaliq.spglobal.com/web/client?auth=inheri#statIndustry/pcIndustry?KeyStatEntity=E61858CD-F1F9-42BD-8848-8CB6B42ED2FE>.

developing the wording of insurance policy forms and for filing rates and forms at state insurance regulators on behalf of their member insurers. North Carolina is the only remaining state with a rating bureau that continues to provide these services for insurers writing homeowners business in the state.²⁷ All insurance companies licensed in the state to provide residential property coverage in North Carolina must subscribe to and be members of the North Carolina Rating Bureau (NCRB). Insurers support the NCRB financially by paying the bureau according to their market share in the state.

Monopolistic Markets

Workers' compensation insurance, a required line of business employers must provide for their employees, is highly competitive, with over 200 insurers offering the product in most states.²⁸ However, in four states—Ohio, North Dakota, Washington and Wyoming—the workers' compensation market is a monopoly, where a state-run insurance company is the only source of workers' compensation insurance.²⁹ Monopolistic markets for workers' compensation insurance introduce the same drawbacks of monopolies everywhere: There is no consumer choice or competitive pressure for companies to improve their products and services.

Homeowners Premium

The impact of price controls on homeowners insurance rates can also be discerned in data on average homeowners insurance premium by state.³⁰ The table below shows the average price of a homeowners insurance policy in California as \$1,241, about the same as \$1,222 for South Dakota or \$1,296 for Tennessee. However, the cost to build or rebuild a home in California is higher than these other states. In California, homebuilding or rebuilding costs \$173 per square

²⁷ J. Bradley Karl et al., "Consent to Rate Laws: A Case Study of the North Carolina Homeowners Insurance Marketplace," *Journal of Insurance Regulation* 39:3 (June 25, 2020). <https://content.naic.org/sites/default/files/jir-za-39-03-el-consent-rate-nc-homeowners.pdf>.

²⁸ "List of Workers Compensation Insurance Companies," Class Codes, last accessed Sept. 3, 2023. <https://classcodes.net/list-workers-compensation-insurance-companies/index.html>.

²⁹ "Monopolistic state funds," International Risk Management Institute, Inc., last accessed July 11, 2023. <https://www.irmi.com/term/insurance-definitions/monopolistic-state-funds>.

³⁰ "Facts + Statistics: Homeowners and renters insurance," Insurance Information Institute, last accessed Sept. 3, 2023. <https://www.iii.org/fact-statistic/facts-statistics-homeowners-and-renters-insurance>.

foot—17 percent higher than \$144 per square foot in South Dakota or Tennessee.³¹ California is also more prone to natural catastrophes like wildfires. These comparisons suggest that homeowners' insurance in California is underpriced because of the price controls, a factor contributing to the exodus of insurers from the market.

Average Homeowners Insurance Premium in \$ by State, 2020

Alabama	1,501	Montana	1,347
Alaska	989	Nebraska	1,586
Arizona	866	Nevada	824
Arkansas	1,498	New Hampshire	1,048
California	1,241	New Jersey	1,277
Colorado	1,667	New Mexico	1,151
Connecticut	1,582	New York	1,356
Delaware	907	North Carolina	1,119
Florida	4,200*	North Dakota	1,230
Georgia	1,403	Ohio	871
Hawaii	1,245	Oklahoma	2,040
Idaho	810	Oregon	735
Illinois	1,144	Pennsylvania	967
Indiana	1,021	Rhode Island	1,788
Iowa	998	South Carolina	1,327
Kansas	1,478	South Dakota	1,222
Kentucky	1,174	Tennessee	1,296
Louisiana	2,038	Texas	2,000
Maine	956	Utah	764
Maryland	1,169	Vermont	984
Massachusetts	1,667	Virginia	1,107
Michigan	1,002	Washington	937
Minnesota	1,481	West Virginia	974
Mississippi	1,674	Wisconsin	762
Missouri	1,301	Wyoming	1,308

³¹ Jordan Rosenfeld, "Most (and Least) Expensive States to Build a Home," Go Banking Rates, June 16, 2023. <https://www.gobankingrates.com/investing/real-estate/most-expensive-cheapest-states-to-build-house>.

U.S. Average	1,331
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*Data for Florida is from 2022, provided by Insurance Information Institute correspondence.

Source: "Facts + Statistics: Homeowners and renters insurance," Insurance Information Institute, last accessed Sept. 3, 2023. <https://www.iii.org/fact-statistic/facts-statistics-homeowners-and-renters-insurance>.

Conclusion

A free and competitive insurance market positively impacts customer choice and undergirds sound risk-adjusted pricing. However well-intentioned they may be, government-imposed price controls and other interventions lead to disruption and can, in extreme instances, result in crisis conditions where choice is limited and prices rise unmanageably.

Thank you for holding today's hearing, and thank you for your consideration of my views. I look forward to any questions you may have.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIR BROWN
FROM DOUGLAS HELLER**

Q.1. Reinsurance costs have reportedly risen as much as 50 percent. Some insurance companies have noted rising reinsurance premiums as a factor in their decisions to raise prices or not write new policies. Please explain the impact of rising reinsurance costs on the insurance market.

A.1. In 2023, the cost of the reinsurance coverage that insurance companies purchase to hedge against the risk of catastrophic losses in the U.S. has increased at the fastest year over year pace since 2006, according to the Guy Carpenter Rate On Line Index. 2023 marks the sixth straight year that rates for reinsurance have increased, the longest upward pattern since Guy Carpenter introduced the firm's index in 1990. These increases have, rightly, placed a spotlight on the role of reinsurance in the current property insurance crisis affecting homes and businesses across the Nation.

Primary insurers—the insurers issuing consumers' property insurance policies and assuming the risk of loss—use reinsurance as a tool to manage their risk exposure. The price of reinsurance is comprised of two overarching components—the reinsurer's estimate of the average annual claim cost for coverage and the reinsurer's administrative costs and profit. The latter is known as the net cost of the reinsurance—the amount in excess of expected claim costs. While State-based oversight and regulation governs primary insurers' estimates of loss costs and administrative costs, the reinsurance companies are unregulated global firms that face no public scrutiny of their rates. That gives them significant power over the affordability and availability of insurance in the United States. This sway that reinsurers have over the primary insurance market highlights several important realities impacting property insurance in the United States.

The first is the financial reality facing millions of American residents and businesses. In most cases, insurance companies pass through the cost of reinsurance, or much of it, to the customers they insure. As reinsurance premiums sold by companies based in Bermuda, Germany, and elsewhere around the globe skyrocket, so do premiums in American neighborhoods. Notably, because of strong consumer protection laws in California, insurers in that State do purchase reinsurance but are only permitted to pass along the expected cost of claims to consumers and may not pass through the net cost. Though insurers have suggested that the inability to foist their total reinsurance cost onto California consumers is driving decisions to reduce availability in that State, insurers have moved to limit policies as or more aggressively in Florida, Louisiana, Colorado, and other States that allow the complete pass through of reinsurance to consumers. This suggests that shifting insurers' hedging strategy onto consumer bills does not change the dynamic that has led to market withdrawals.

The second reality that must come into focus is that the global reinsurance market has a total capacity of about \$500 to \$600 billion. Compared to the potential for tens of billions of dollars of losses in a number of States alone, this limited global reinsurance capacity makes it a sellers' market for catastrophe reinsurance, allowing reinsurers to raise prices in excess of expected costs.

Third, this sellers' market situation is exacerbated by the fact that insurers in several States for certain types of perils are overly reliant on reinsurance, having pursued a business model that starts with minimum capital and utilizes reinsurance to cover most of their expected losses. With such a business model, the insurer's financial condition is vulnerable when reinsurers jack up prices dramatically as they have in recent years. This has led to insolvencies and sudden withdrawals in several markets.

Finally, the vulnerability to the reinsurance market highlights the fact that primary insurers failed to prepare for climate change in the decades leading up to the current crisis, focusing instead on addressing the dangers by cutting coverage for consumers and over-relying on reinsurance to address the remaining risk. Primary insurers and their trades vehemently opposed efforts by the NAIC in the early 2000s to have insurers prepare climate risk disclosures, maintaining that opposition for over 15 years and relenting only in the last few years. Instead of planning for the impacts of climate change—including the predictable reinsurance rate hikes and market tightening—primary insurers have steadily hollowed out policies with exclusions and higher deductibles for their policies, which, unlike primary insurers in other developed Nations, already exclude flood, wind, and earthquake. Additionally, they have used big data—including a host of new data sources that enable insurers produce extremely granular assessments of risk through high definition aerial images, detailed topography, and more—to exclude customers rather than share this improved risk assessment with consumers for loss prevention partnerships. If insurers had, instead, spent the past two decades incorporating the severity of climate change into their planning, and partnered with communities in loss mitigation efforts, home insurance costs would not be nearly as susceptible to the influence of the reinsurance market.

California's protections notwithstanding, the scale of the reinsurance premium increases and the tightening of reinsurance capacity have had devastating effects on the U.S. property insurance market. Other than the staggering growth of risk exposure due to climate change, the doubling of reinsurance costs over the past 5 or 6 years is the most significant direct contributor to rising insurance premiums and reduced availability around the country. The path forward is to follow the Federal terrorism reinsurance program model, described in response to question three below, in which the Federal Government provides the upper level of reinsurance coverage for mega-catastrophes in exchange for insurers offering essential and meaningful coverage. We must also recognize the fact that the long-term solution does not come just from fixing problems with the risk-transfer market; it comes from reducing risk by investing in a more resilient society and building stock funded.

Q.2. In your written testimony, you noted that some insurers have made efforts to block improvements to the quality of coverage offered by State-mandated insurer of last resort programs. Please explain the type of coverage last resort programs offer and why it is important to improve coverage quality.

A.2. State-based insurers of last resort—the residual market—have become increasingly important across the country, as major insur-

ance companies have withdrawn coverage from certain communities and entire States as climate change and reinsurance prices lead the industry to be much more selective about where and to whom insurers are willing to sell insurance protection. The concept of a residual market mechanism for insurance is to provide consumers who are generally required to purchase and maintain insurance with an option to buy that coverage when the private market is unwilling to sell it. Unfortunately, and astonishingly, many States treat consumers punitively when they are forced to utilize the residual market. These punitive measures take a variety of forms, from reduced and inadequate coverage options to excessive pricing or a mandate to purchase additional coverage not required of consumers able to obtain coverage in the private market.

Nationally, about 2.2 million homes are now covered by these insurers of last resort, with more than half of those homes covered by Florida's Citizens Property Insurance Company. There are an additional half million windstorm policies sold through the residual markets for people who cannot get hurricane coverage in the private market.¹ Most States with an insurer of last resort have a Fair Access to Insurance Requirements plan, commonly known as a FAIR Plan. These plans are managed as quasi-public entities that are usually overseen by a board comprised of insurers that sell property insurance in the State's voluntary market. The risk of loss associated with FAIR plan policies is backed by the insurance companies in the State. Florida and Louisiana use the Citizens Property Insurance approach, in which a State-created insurance company sells the last resort policies and is itself responsible for losses incurred under those policies. Additionally, there are catastrophe-specific residual insurers that provide a backstop for hurricane (windstorm) or earthquake coverage in places where those coverages can be excluded from traditional homeowners policies. All told, Americans spent over \$6 billion purchasing home and windstorm insurance through the State residual markets in 2022,² making the last resort markets around the Nation a critically important tool deserving of public policy.

For those homeowners who rely on their State's residual market, these last resort policies are essential not only because families need coverage to protect their most valuable asset, but because they are required to have insurance by their mortgage lender. Serving those who need the coverage is the whole point of State laws that provide for last resort insurance: if the private market does not provide this essential and required insurance, the residual program will provide it.

Because these policies are meant to protect consumers who are not well-served by the voluntary market but who, nevertheless, need the same full coverage that any homeowner needs, it is important that the residual markets offer quality coverage that ensures access to needed insurance. However, in many States, and for different reasons, many of the last resort programs do not meet the

¹ There are also approximately one million Californians who purchase earthquake insurance through the California Earthquake Authority.

² "Firm Foundation: How Insurance Supports the Economy". Insurance Information Institute. Retrieved from <https://www.iii.org/publications/a-firm-foundation-how-insurance-supports-the-economy/a-50-state-commitment/residual-markets>.

needs of homeowners who are cut off from a competitive insurance market. For example,

- Some State programs exclude coverage for standard perils such as water damage, theft, or liability. In these cases, homeowners not only have to pay a high price for their limited coverage FAIR plan policy, they also need to pay for a “Difference in Condition,” or wraparound, policy to supplement their main homeowners insurance.
- Some State programs only provide coverage on an Actual Cash Value basis, which means that claims payments for damage are reduced by a depreciation factor, leaving homeowners to cover substantially more of the cost of rebuilding beyond just their deductible.
- Some State programs cannot sell coverage for homes in which the replacement cost is above a certain amount, often \$600,000 or \$700,000, which can exclude families who live in regions with high rebuilding costs.

Another concern is that—even as the insurance markets in some higher risk States such as Florida and Louisiana remain uncompetitive and not well-served by the private insurance market—there are efforts to “depopulate” the residual market programs, creating additional and unnecessary burdens on homeowners. In Florida, homeowners are not eligible for Florida Citizens coverage if there is a policy available to them that is up to 20 percent more expensive than what the State company would charge. In Louisiana, State law requires that Citizens’ premium be set either 10 percent more expensive than the costliest premium in the local market or 10 percent higher than its own actuarial indication, whichever is costlier. The idea behind both States’ pricing rules is to push people away from the State backstop program and prevent the last-resort insurer from competing with the private, voluntary market. That is a misguided and counterproductive response to addressing a marketplace in which the private sector has demonstrated, in many ways, a lack of interest or intent to compete for the business of the millions of homeowners that rely on the last resort insurer. Put differently, if private insurers do not want to provide coverage in some communities or if private market policies are so expensive as to make coverage effectively unavailable, the public policy response should focus on ensuring availability of quality and affordable options and not be spent worrying about the insurer-of-last resort being too competitive with the uninterested insurers.

Last resort insurance markets in the country are necessary to close an ever-expanding coverage gap that has been growing alongside the increasing risk stemming from climate change. However, the rules governing many of the State residual programs—including the fact that they are often overseen by boards that are majority or exclusively insurance industry representatives—have not adapted to address the increased reliance on the programs. Rather than focusing on making the insurer of last resort unattractive to consumers—through limited coverages and unnecessarily high prices—public policy should be geared to providing quality coverage options at the most reasonable rate to homeowners (and farm and

businessowners) for whom the voluntary insurance market is not a viable option.

Q.3. At the hearing, Senator Kennedy asked about what could help address the high cost of property insurance today. You mentioned building a Federal reinsurance program similar to the Terrorism Risk Insurance Act (TRIA). Please explain what such a program would look like and how it would function.

A.3. In order to relieve the pressure on the property insurance market coming from the tight, expensive, and unregulated global reinsurance market, the Federal Government could create a catastrophe reinsurance program that serves as a backstop for insurance companies' escalating risk of loss due to climate change. Like TRIA, the Federal reinsurance program Congress created in response to the commercial property insurance availability crisis in the aftermath of the September 11, 2001, terrorist attacks, a Federal catastrophe reinsurance (cat re) program would bring a layer of stable, fairly priced reinsurance for mega-catastrophes in exchange for mandating that insurers offer meaningful coverage.

Such a Federal catastrophe reinsurance program would promote greater availability and affordability of meaningful primary property insurance coverage in several ways:

First, it would provide greater certainty to insurers about their maximum exposure. By capping the maximum exposure for a mega-catastrophe, the Federal cat reinsurance program would give insurers greater confidence in a lower-limit to their maximum exposure.

Second, it would provide stable and relatively low-cost reinsurance for the most expensive tranche of catastrophe risk. Stable and fair reinsurance pricing is essential to match the long-term nature of consumer and business property investments.

Third, it would promote more stable and competitive private reinsurance markets by limiting the private reinsurance to that tranche of risk above primary insurer retention and below the Federal cat re threshold. By limiting this role for private reinsurance, the Federal cat re would promote greater competition and stability in that portion of the private reinsurance market.

Fourth, by promoting an all-perils policy—in which now-excluded coverages like flood, hurricane, wildfire, and earthquake would be included in a standard home insurance policy—there would be substantial efficiencies in the provision of coverage by eliminating the additional administrative costs of multiple policies for the same property. These savings are significant since non-claim and non-reinsurance costs are typically 30 percent to 40 percent of these stand-alone policies for flood and wind. I have attached a 2022 presentation given to the National Association of Insurance Commissioners that provides a more detailed explanation of how a Federal cat re and all-perils policy would promote availability and affordability of coverage for flood, specifically.

Fifth, by pairing the Federal cat re program with a mandate to offer an all-perils policy, our Nation would improve its resiliency to natural catastrophe events, as insurance is the best way for homes and businesses to recover from such events. Oftentimes, 30 percent to 40 percent of claims following a catastrophe are denied. While

some of this may be a result of unfair claim settlement practices, a large part of this stems from claims filed by consumers who do not have the coverage they thought they had. It is worth noting, as well, that an all-perils policy removes the conflict of interest from an insurer who fronts for the NFIP and is charged with determining whether an event is covered under the private insurer's policy or the NFIP policy.

The all-perils policy facilitated by the Federal cat re program would bring many more families under the umbrella of full-coverage home insurance without having to purchase multiple policies for each individual catastrophic peril. Further, by dramatically increasing the number of homes covered for disasters like flood and earthquake and thereby spreading the risk more effectively, the program will help to reduce the coverage gaps throughout the country while lowering the cost of coverage compared with the current market. Finally, by helping to close the insurance gap, the Federal reinsurance program will be reducing Americans' reliance on post-disaster, taxpayer funded emergency assistance.

Q.4. In your written testimony, you noted that nonprofit organizations also face a property insurance availability crisis. What can State regulators, or the Federal Government, do, if anything, to create coverage and capacity if insurers decide not to offer a particular coverage?

A.4. Congress should work, as Chair Brown has, to expand the coverage that can be provided by Risk Retention Groups to include property coverage. In 2017 testimony before the House Committee on Financial Services Subcommittee on Housing and Insurance, Baird Webel of the Congressional Research Service testified that, "although capital sources for insurance may be worldwide, the insurance policies themselves are very particular and specific products. Thus, specific lines of insurance or certain States may face market conditions that are quite different than the general market conditions seen by most market participants."³

This is the sort of availability crisis that is facing nonprofit organizations. Unfortunately, there is little that State regulators can do in these situations other than reduce capital requirements to induce insurance companies to offer coverage, albeit at higher risk to consumers. With specialized pockets of market failure, this tactic tends not to work very well to create additional capacity.

On the other hand, in cases of coverage and capacity shortages, history has shown that the Federal Government does have effective tools to create alternative arrangements that allow special purpose insurance companies to be created by and for commercial consumers to meet their insurance needs. The best example of this is the Liability Risk Retention Act (LRRA) which Congress authorized in 1986, allowing the creation of Risk Retention Groups (RRGs).

In the closing of his written remarks for the hearing mentioned above, Mr. Webel, indicated that RRGs are still a small part of the market but then added, "Economic theory suggests, however, that it is not necessary for a competitor to have a large market share in order to have an impact on prices or availability. Anecdotal cases also suggest that the LRRA is expanding the availability of

³ <https://financialservices.house.gov/uploadedfiles/hhrg-115-ba04-wstate-bwebel-20170928.pdf>

insurance, especially in local situations with severe supply difficulties. The Department of Commerce came to the conclusion in 1989 that the 1986 act had been successful in addressing supply problems, and the GAO reported similar findings in the previously mentioned 2005 report and 2011 report.”

Congress could expand the LRRA to enable organizations like nonprofits that are experiencing the worst of these market failures to offer property insurance as well as the liability insurance they have offered successfully for decades.

Q.5. The Banking and Housing Committee has heard proposals in the past to mandate a certain amount of reinsurance for some insurance programs, like National Flood Insurance Program (NFIP). What do you think the affect of mandatory reinsurance purchase would be on NFIP policyholders and on the stability of the program?

A.5. Mandating that the NFIP purchase reinsurance in the global unregulated reinsurance market is a terribly costly and inefficient approach to addressing the problems at the NFIP. Putting aside the exorbitant prices of the private reinsurance market discussed above, the net cost of reinsurance—which could be 30 percent to 50 percent of the expected claim benefits—is orders of magnitude greater than the cost of the NFIP borrowing money from Treasury if an event requires a claim payout greater than NFIP’s current funds.

As noted in the attached presentation on converting the NFIP from a direct insurer of flood to a reinsurer, the NFIP requires a major re-engineering to meet the challenges of the 21st century. Congress has given the NFIP conflicting mandates and, unlike property insurance regulated at the State level, Congress routinely seeks to address affordability through the insurance pricing mechanism instead of through means-tested financial assistance. Adding a mandatory purchase of reinsurance will only make matters worse.

Requiring that NFIP purchase private reinsurance not only forces the Federal entity into the same problem faced by private home insurers, such a mandate would further reduce availability of reinsurance coverage for private insurers and programs like the California Earthquake Authority. Indeed, in January 2023, the California Earthquake Authority’s Executive Director, Glenn Pomeroy, told the State’s Governing Board that one of the significant drives of their financial problems is a decline in the amount of reinsurance available to the CEA. As such, a result of this mandate would be both higher prices for flood insurance and for homeowners, farm owners, commercial property, and earthquake insurance as well.



**Addressing the Peril of Flood:
State Insurance Regulators Must Step Up to
Champion A New National Strategy**

NAIC Property Casualty (C) Committee

December 15, 2022

Birny Birnbaum

The Center for Economic Justice

CEJ is a non-profit consumer advocacy organization dedicated to representing the interests of consumers – particularly consumers of modest means and of communities of color – as a class on economic justice issues. Most of our work is before administrative agencies on insurance, financial services and utility issues.

On the web: www.cej-online.org

About Birny Birnbaum

Birny Birnbaum is the Director of the Center for Economic Justice, a non-profit organization whose mission is to advocate on behalf of low-income consumers on issues of availability, affordability, accessibility of basic goods and services, such as utilities, credit and insurance.

Birny, an economist and former insurance regulator. He's performed numerous market analyses of insurance markets for many lines of insurance. He has served for many years as a designated Consumer Representative at the National Association of Insurance Commissioners and is a member of the U.S. Department of Treasury's Federal Advisory Committee on Insurance, where he co-chairs the subcommittee on insurance availability.

Birny served as Associate Commissioner for Policy and Research and the Chief Economist at the Texas Department of Insurance. At the Department, Birny developed and implemented a robust data collection program for market monitoring and surveillance.

Birny was educated at Bowdoin College and the Massachusetts Institute of Technology. He holds Master's Degrees from MIT in Management and in Urban Planning with concentrations in finance and applied economics. He holds the AMCM certification.

What are the Goals of a National Strategy to Address the Peril of Flood?

- Educate consumers, businesses and communities about the risk of flooding for informed purchase and mitigation investment decisions.
- Promote Investment in mitigation.
- Promote Investment in resilience.
- Massively increase use of flood insurance – universal coverage.
- Equitable use of public resources.
- Fair pricing of flood insurance.

No Criticism of FEMA or the NFIP

The current problems with flood insurance outlined in this presentation are not a criticism of FEMA or the NFIP nor a result of poor performance of FEMA or the NFIP.

FEMA and the NFIP are working within the constraints and conflicting directives of Congress.

What's the Current Situation?

- Flood Excluded from Residential Property Insurance, Separate Policy Purchase Required
- Inequitable Requirements for Flood Insurance Purchase
- Poor or Mis-Information to Consumers, Unfulfilled Expectations
- Inadequate Purchase of Flood Insurance -- Most Consumers Facing Flood Risk Without Flood Insurance
- Inefficient Delivery of Flood Insurance by the NFIP
- Inefficient and Conflict-ridden Claim Settlement
- Little Use of the State-based Regulatory System

The Current Situation – Recent News

“Extreme floods expose flaws in FEMA’s risk maps”

A Washington Post analysis of videos taken by people who endured destruction from flooding pinpoints how federal maps are failing to reflect the growing peril that Americans face.

FEMA officials have testified to Congress that over 40 percent of NFIP claims made in 2017 to 2019 were for properties outside official flood hazard zones, or in areas the agency had yet to map.

“Maps do not forecast flooding. Maps only reflect past flooding conditions and are a snapshot in time. They do not represent all hazards and do not predict future conditions,” Michael Grimm, acting deputy associate administrator of FEMA’s Federal Insurance and Mitigation Administration, told The Post.

The Current Situation – Recent News

“Maine’s decades-old flood maps don’t always factor in sea rise and climate change. Outdated, inaccurate or missing maps may mean property owners aren’t aware of flood risk.”

As Congress looks to reauthorize the chronically-underfunded National Flood Insurance Program next week, much of Maine is operating with flood maps that are decades old, if they exist at all. And the new maps that are being drawn are not designed for a changing climate. They don’t account for sea level rise or the kind of extreme rainfall events that are becoming increasingly common in Maine and elsewhere around the country.

The Current Situation – Recent News

In Arcadia, many residents without insurance struggling to rebuild after hurricane

Insurance unaffordability has compounded problems in this city far from the coast that was hit hard by Hurricane Ian.

Florida residents impacted by flood damage facing insurance claim denials

A lot of homeowners found out the hard way during Hurricane Ian that their home insurance policies don't cover flood damage.

Inequitable Mandatory Flood Insurance Purchase Requirements

Currently, flood insurance is a mandatory purchase if property is located in a SFHA. But, maps don't accurately reflect flood risk while creating a binary requirement that can change as a new flood map is adopted. Result is purchase requirements not actually tied to current flood risk.

Giving consumers the "choice" to go uninsured for a peril they can't meaningfully assess isn't doing anyone a favor. Withholding the true cost of protection and the cost of maintaining a property isn't doing anyone a favor and generates huge societal costs for everyone.

Mixed Messages for Consumers

Flood insurance is a mandatory purchase for federal government-issued or insured loans for properties in designated Special Flood Hazard Areas. SFHAs created through FEMA mapping in a multi-year process with tens of thousands of communities across the country.

- Maps don't reflect current flood risk
- Mapping flood risk politicized
- Flood risk presented as binary – yes if in SFHA, no if not
- Decades of consumer education has not moved the needle on voluntary purchase of flood insurance

Inefficient and Inequitable Delivery of Flood Insurance through the NFIP

While Risk Rating 2.0 is attempting to bring risk-based pricing to NFIP policies, NFIP premiums continue to provide subsidies to consumers who have the means to pay the risk-based price.

Even assuming full implementation of Risk Rating 2.0, NFIP premiums remain inequitable and the provision of flood insurance through a second policy, instead of a covered peril within the property insurance policy, is grossly inefficient

Where the NFIP Premium Dollar Goes

According to FEMA, as of December 31, 2021, the average NFIP charge is \$771, of which \$724 is the premium and \$47 is the Federal Policy Fee.

Of the premium:

49% goes to claims and claim settlement.

30% goes to Write-Your-Own companies for distribution and servicing

11% goes to debt service for prior disasters requiring federal loans

5% goes to operating costs

5% goes to FEMA Grants for flood mitigation

Where the NFIP Premium Dollar Goes

Of the \$47 Federal Policy Fee,

79% goes to flood mapping

14% goes to floodplain management

7% goes to FEMA “Mission Support”

Nearly 11% of the \$771 charge goes to things other than flood insurance – charging NFIP policyholders for activities that benefit all members of society.

The NFIP also purchases private reinsurance, despite the federal government having far more resources than the reinsurance market.

Separate Flood Insurance Policy is Inefficient

In addition to the costs unrelated to the provision of flood insurance, the NFIP policy – as well as private flood insurance provided through policies separate from the residential property insurance policy – is an inefficient way to deliver insurance coverage for the peril of flood.

Instead of simply adding the costs of flood risk coverage to the homeowners policy, a separate policy duplicates the sales cost – 30% of premium in the case of the NFIP policy.

NFIP / Separate Flood Policy Inflates Claim Settlement Expenses, Creates Conflict of Interest

A separate flood insurance policy requires the determination whether the damage is covered under the residential property insurance policy, the flood policy or neither.

In the case of the WYO carriers, this creates a conflict of interest in which they are asked to decide if damage is covered under their policy or the NFIP policy.

Tens of thousands of claims are filed and denied because consumers don't understand that flood damage is not covered by their residential property insurance policy -- not just adding expense to the system but defying consumer expectations, despite decades of "education."

Separate Flood Policies Generate Inconsistencies with Residential Property Insurance Policies and Sideline State Insurance Regulators

NFIP (and most private flood) policies cap coverage at \$250,000 – which can be much lower than Coverage A on residential property insurance policies and effectively creating massive flood insurance deductibles.

Claim settlement provisions for NFIP and surplus lines policies vary from standard residential property insurance and limit state regulator involvement.

Surplus lines private flood not subject to rate or form supervision by state insurance regulators.

Little Engagement by Insurers in Flood Mitigation and Resilience

Unlike other countries where private insurers provide flood insurance as part of risk-sharing partnerships with government and where private insurers are actively engaged in flood risk mitigation and resilience efforts, few insurers in the US are so engaged.

A national strategy to address the peril of flood requires massive engagement by the insurance industry, including provision of coverage for flood.

The Problems

- Relatively few homeowners and businesses purchasing flood insurance and consequently relying on disaster relief or savings to recover from flooding events.
- Improper risk and price signals to individuals and businesses making investment decisions about property purchases.
- Inadequate incentives for loss mitigation due to subsidized rates;
- Federal expenditures for disaster relief that leave individuals and communities more susceptible to future loss instead of more resilient and sustainable.
- Subsidies for consumers who do not need financial assistance and lack of or inadequate government assistance for those who do need financial assistance to purchase flood insurance or invest in flood mitigation.

The Problems

- Subsidies by some taxpayers of other taxpayers in the offer of and cost to deliver flood protection.
- Inefficient delivery of coverage for flood with additional administrative costs for private insurers to sell the NFIP policy separate from the standard residential or commercial property insurance policy.
- Lack of standard insurance consumer protections found in state regulation of residential and commercial property insurance.
- Lack of a residual market for flood insurance, leaving force-placed flood insurance as the de facto residual market.

The Way Forward

- Federal requirement for flood insurance for all federally-involved mortgages.
- State requirement for inclusion of flood coverage in residential property insurance policies. Turn flood insurance back to the states as with other property insurance.
- Transform the NFIP from a direct provider of flood insurance to a TRIA-like reinsurer for mega-flooding events with state-specific attachment points.
- Focus federal resources on mapping, mitigation, resilience and means-tested assistance to consumer facing affordability issues.

What would this accomplish?

- Facilitate private insurer provision of flood insurance by capping the current unlimited exposure – as demonstrated by TRIA.
- Massively improve individual and community resilience through near universal flood insurance.
- Reduce the cost of flood coverage for vast majority of consumers.
- Utilize, in real time, current and emerging expertise in flood risk mapping.
- Create a public-private partnership that meaningfully engages the insurance industry, as done in other countries. Incentivizes insurers for greater engagement in flood mitigation and resilience.
- More transparent and accurate prices to consumers and businesses making investment decisions on the purchase of real property, including the proper economic signals for investments in loss mitigation.

What would this accomplish?

- Greater opportunity to utilize the expertise of private insurers, reinsurers and catastrophe modelers on flood risk identification and mitigation.
- All consumers and businesses will have coverage they expect and pay their fair share for that coverage.
- More efficient and lower-cost delivery of flood coverage than through a separate NFIP or private flood policy – efficiencies in sales, administration and claims settlement.
- Lower costs through a larger, more diversified risk pool.
- Federal financial assistance targeted to those in need and to investments in sustainability and resiliency.
- State-based consumer protections for sales and claims settlement by insurance departments who have over 100 years of experience and the regulatory infrastructure in protecting consumers and addressing market failures.

How do we get there?

- **NAIC / State Insurance Regulator Leadership to Guide Congress.**
- Set full implementation date 24 months after Congressional action and reauthorize NFIP through that period.
- Assess/Quantify flood exposure by state and establish state-specific attachment points for FRIP (Federal Flood Reinsurance Program) that don't crowd out private reinsurance. Phase-in higher attachment points for FRIP. NAIC role for data collection and analysis for these annual calculations
- NAIC efforts to promote best practices for flood coverage policy language in residential property policies, pricing oversight and flood risk models.
- Reliable Federal funding for critical FEMA activities – mapping, mitigation, floodplain management – to reflect benefits for all Americans
- Affordability assistance outside of insurance pricing – respect risk-based pricing.
- Forgive NFIP debt upon conversion to reinsurance mechanism.

Questions?

Thanks for the opportunity to visit with you today.

**RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAMER
FROM DOUGLAS HELLER**

Q.1. In order to better capture risk and help reduce volatility in pricing, to what extent are there considerations to allow insurers to use forward-looking models to set premiums for hazards where they haven't traditionally been able to use such models—for example like with wildfires in California?

A.1. Human-caused climate change has led to a changing risk dynamic in all parts of the country. In an attempt to adjust their calculation of rate needs in accordance with this changing and increasing risk of loss, many insurers have turned to forward-looking models to determine both the catastrophe load that needs to be incorporated into their overall rates and the premiums they charge individual customers. While conceptually useful, the competing models often create wildly different projections of risk and have not helped States avoid the volatility and significant market disruption that the Senator's question, quite reasonably, anticipates. These models tend to be largely hidden from public view and scrutiny, making it difficult to identify why they fail to achieve what they promise.

In Florida, for example, insurers have used forward-looking models for decades, yet that market is the most volatile in the Nation. In Colorado, where insurers were already using models to better capture risk associated with wildfire, hail, and other perils, the market was not prepared for the Marshall Fire that struck Boulder and surrounding areas in December 2021. Thereafter, the State was forced to create a FAIR plan (insurer of last resort) to address the difficulties many homeowners had finding property insurance. In Louisiana, too, the ability to use forward-looking models did not eliminate that State's determination that it had to offer tens of millions of taxpayer dollars to insurance companies to lure carriers back into that home insurance market.¹

As the above examples indicate, forward-looking models are not a silver bullet to the challenges we see in the Nation's property insurance markets. In California, where rate transparency is a foundational element of the State's insurance consumer protection law, insurers are currently required to use at least 20 years of data concerning catastrophic events (though they often use more) to calculate the "catastrophe load" that gets built into homeowners insurance rates. Insurers have argued that this backward-looking approach has limited their ability to use algorithms based on other non-insurance data, such as climate models, to predict future wildfire risk.

While we disagree with insurers' arguments that the lack of modeling has compromised their ability to operate in California—as I noted in my written testimony, the National Association of Insurance Commissioners data clearly illustrate that the California homeowners insurance market has been substantially more profitable than the Nation as a whole since 2019, despite models being allowed in every other jurisdiction—we appreciate the Senator's effort to identify a way to help insurance markets better account for climate change. We think that is a worthy pursuit, even knowing

¹ <https://ldi.la.gov/industry/insure-louisiana-incentive-program>

the limitations of forward-looking models, and suggest a way that California and other States could incorporate forward-looking models without compromising critical consumer protections concerning ratemaking transparency and ensuring rates that are not excessive or unfairly discriminatory.

Consumer Federation of America supports the creation of public catastrophe models that insurers could use to assess and incorporate the impact of climate change on risk in a particular market. These models could be managed by research universities and funded as a State or multistate investment in the stability and strength of insurance markets (though we would recommend that insurers pay a fee to use it, in order to offset the taxpayer cost). Notably, the State of Florida has funded the Florida Public Hurricane Loss Model, which is constructed by a consortium that includes Florida International University, Florida Institute of Technology, Florida State University, University of Florida, Hurricane Research Division of NOAA, and University of Miami.

By retaining necessary experts and aggregating the troves of publicly available data, such as that from NOAA and CalFire, for example, models could be built with full transparency and responsive to public and expert input throughout their development and refinement. Once completed, the models would be made available to insurers for incorporation into their rates. In this way, insurers would have the ability to supplement their historical catastrophic loss data with insights from scientific research that can help better project losses in a changing risk environment. At the same time, the homeowners who have to pay the premiums stemming from the model's projections would have confidence that the modeling is developed and applied in a transparent manner that hews to scientific findings and the public interest in justifiable and reasonable premiums.

Q.2. Given the increase in financial losses related to extreme weather and other natural disasters and growing concern about the lack of insurance coverage and affordability in some markets, is there an appetite for a nationwide public insurance option for hazards in addition to floods or other public/private risk-sharing mechanisms that could ultimately benefit taxpayers currently covering massive disaster relief costs? What would you recommend to encourage and increase insurance coverage given these risks in these markets today? What is the role of asset-level risk mitigation measures and strategies to better incentive those to reduce loss to both insurers, property owners, and taxpayers?

A.2. There are few precedents for the rapidity and scale of the increase in extreme weather and the concomitant increase in risk of property loss across the country and the globe. As the question implies, the need for new approaches is not just to address the inability of the private market to meet the insurance coverage needs of American homeowners and businesses, new strategies are critical to reducing the amount of post-disaster aid that taxpayers will be asked to cover when future floods, windstorms, and wildfires devastate communities across the country.

In 2005, former Texas Deputy Insurance Commissioner, Birny Birnbaum, Director of the Center for Economic Justice, highlighted

the need for precisely the conversation that this question entertains. He wrote, in an email to the NAIC's Consumer Liaison Committee Chair, of the need for

a presentation on the impact of climate change on weather-related events and whether regulators, insurers and legislators understand and are taking into account the gradual and sudden weather changes we can expect. My hope is that, by describing—with the best available science—some of the expected changes due to climate change, we can show that the call for Federal disaster insurance programs are need[ed] across the country and not just by coastal States.²

Mr. Birnbaum's insights nearly 20 years ago seem quite prescient today, and we are encouraged by the Senate Banking, Housing, and Urban Affairs Committee's bipartisan engagement on this issue and openness to innovative approaches to addressing the unmistakable challenges in the property insurance market. We believe that there are two key elements of innovation and investment that are essential to tackling the current and growing crisis: (1) the creation of a Federal backstop to insurers' exposure to catastrophic disaster risk, and (2) a deep commitment to risk reduction and loss prevention measures, so that taxpayer dollars are spent reducing harm to people and property rather than on picking up the pieces in the aftermath of disaster.

We are confident, with respect to the first part of this question, that there is an appetite for new public and public/private strategies for risk transfer. Across the country, homeowners, businesses, and nonprofit organizations have described a sense of desperation as they confront the difficulties finding coverage, the escalating cost where it is available, and concerns about the limits to how much risk they can transfer, because of such policy elements as high deductibles or maximum coverage limits. Americans are practical and want to be able to own and protect homes and businesses; if a public or public/private risk transfer mechanism is necessary to provide that in the context of escalating risk, property owners will be supportive, relieved to know they can stay in their homes.

Though different in significant ways, the sudden understanding of the scale of terrorism risk in the wake of the September 11th attacks provides a lens through which we can consider the current situation. As discussed in answers to questions from Chair Brown, we believe that there is and ought to be a willingness to look toward public and public/private programs geared to addressing the property insurance availability and affordability concerns facing homes and small businesses, just as Congress and industry identified and implemented a public program to protect large commercial properties in the wake of 9/11.

Generally speaking, State-regulated private insurance markets are capable of providing the property insurance that is needed to protect most homes and businesses most of the time. That market has faltered in recent years in part because of the escalation of stochastic risk associated with catastrophic disasters. More pre-

²February 24, 2005, email from Birny Birnbaum to Florida Insurance Commissioner Kevin McCarty.

cisely, the inability of direct insurers to offload the upper levels of their maximum probable losses to the reinsurance market at a reasonable premium has led companies to dramatically raise premiums, restrict underwriting, and reduce coverage in their policies. If, as is discussed in our response to Chair Brown's third question, the Federal Government stood up a risk transfer mechanism that functioned as a reinsurance relief valve to the pressure that increasing climate risk has imposed on the insurance market, we believe we could significantly address the insurability crisis in the country and incentivize more protected and resilient property development. It was the creation of the Terrorism Risk Insurance Program in 2002, of course, that relieved the unyielding pressure on the commercial risk transfer markets stemming from the acts of terrorism the year before.

Working with insurers, reinsurers, consumer advocates, climate experts, State representatives and regulators, and other stakeholders to identify appropriate attachment points, premiums, and eligibility requirements, this Federal reinsurance program would facilitate the move to All-Perils policies, including a pathway to dismantling the NFIP and returning flood insurance to State-based insurance markets. With a fundamental assurance that the unknown would be taken off the table because Federal reinsurance coverage was available to direct insurers, carriers could sell policies that provided the range of coverages that consumers need, which would help to reduce the coverage gaps that build up when consumers are required to buy separate policies for each peril.

A public investment to support safety and commerce, such as this proposal, would place the Federal Government in a more traditional relationship with the private sector than the NFIP approach we have taken for decades. Much as the Nation contributes to our transportation system by funding roads and highways rather than selling cars to drivers, this program would focus on providing a reinsurance backstop to the property insurance market rather than underwriting individual policies.

The creation of a public reinsurance backstop helps eliminate the risk transfer crisis we face, but it does not address the underlying growth in risk, which the Senator's question also highlights. This question could appropriately be recast as a straightforward statement of the other critical role for the Federal Government in responding to the property insurance crisis: Strategies to incentivize asset-level mitigation and community risk abatement should be among the top priorities of the State and Federal policymakers.

Preventing disaster losses costs a fraction of the amount that it costs to provide emergency assistance after a disaster. Already the Federal Government, through programs like BRIC, and State efforts, such as the FORTIFIED program in Alabama and the California rules to provide insurance discounts as an incentive to homeowners who invest in wildfire home hardening, are saving lives and property. However, the current scale of loss mitigation investment is dramatically too low to reduce the burden of disaster relief on impacted consumers and taxpayers and to improve our national security with more resilient infrastructure. The Federal Government should lead the way with significantly increased funding for loss

mitigation investments, matched in part by insurers, policyholders, and State and local governments.

Additionally, we should be identifying ways in which States and insurers can better partner with their policyholders to use the loss mitigation expertise of the insurance industry to reduce risks. That could come in the form of incentives for stronger building codes around the country, incentives for insurers to invest in either community or asset-level risk abatement, and pilot programs for longer-term property insurance policies that better align the interests of insurance companies and policyholders. Doubtless, there are other such incentives and strategies, so our primary message is that after-disaster emergency aid is far less efficient than pre-disaster mitigation, which also provides the additional benefit of lowering insurance costs. American consumers and communities would be well-served by a commitment to a wide-ranging effort directed at reducing the loss of life and property when disasters strike and increasing resilience in their wake, and Consumer Federation of America is eager to work with this Committee on such an important goal.

**RESPONSES TO WRITTEN QUESTIONS OF CHAIR BROWN
FROM MICHELLE NORRIS**

Q.1. Faith-based organizations and religious institutions around the country may be interested in converting their property into affordable rental housing, but may not know where to begin. We have also seen proposals in some communities to reduce barriers to this type of affordable housing development by easing zoning and other restrictions on affordable housing developments on land owned by religious institutions.

What role can religious institutions play in helping to address the affordable housing and homelessness crises in their communities? What barriers do they face?

A.1. Thank you for this question. National Church Residences was founded as a Christian organization committed to serve all seniors without regard to their beliefs or personal identity. Our values reflect compassion and respect for everyone in everything we do. With this experience, we know that religious institutions and those with religious affiliations, such as National Church Residences, have an important role to play in addressing affordable housing and homelessness in communities across this country. Religious institutions can be important partners in providing services in affordable housing communities, and to people experiencing homelessness.

We also know that religious institutions have access to excess land that can be used to develop affordable housing. Several Section 202 Housing for the Elderly properties were built on such land. Unfortunately, religious institutions are often discouraged or disincentivized from using their excess land for affordable housing due to existing zoning and land use regulations. California's recently enacted "Yes, In God's Backyard" legislation is an example of a policy intervention to address these barriers, allowing land owned by religious institutions—such as churches, mosques, and synagogues—as well as nonprofit colleges, to be rezoned to allow

for affordable housing. Specifically, starting in 2024, religious institutions in California will be able to bypass most local permitting and rules that can be costly and lengthy, for the express purpose of building affordable housing. Other States should consider such legislation to accelerate the supply of affordable housing.

Q.2. How can the Federal Government help these organizations and communities who want to work with them to address the affordable housing crisis? Are their types of technical assistance, best practices, and planning assistance that would help their organizations and communities to address the affordable housing needs in their communities?

A.2. Policy interventions, including zoning reforms and the “Yes, In God’s Backyard” legislation, that allow for religious institutions to more readily use their excess land for affordable housing is a critical step forward. While the Federal Government cannot change zoning or land use regulations, it can provide technical assistance and elevate best practices. The Fiscal Year 2023 omnibus bill provided funding for HUD’s Pathways to Removing Obstacles to Housing (PRO Housing) program to support communities who are actively taking steps to remove barriers to affordable housing, including land use and zoning regulations. HUD should consider encouraging grantees—which include State and local municipalities—to engage religious institutions in the planning and execution of these plans, especially if there are possible avenues for utilizing excess land for affordable housing.

The Federal Government can also elevate best practices and encourage the excess land to be donated instead of sold for affordable housing. Land costs are a large driver in total development costs, so the Federal Government could play an important role in sharing how donated and low-cost land, especially when near transit and other amenities, can help ensure affordable and quality housing for communities.

And finally, affordable housing is a complex business, with development and compliance requirements are often difficult to navigate. The Federal Government can help religious institutions interested in pursuing affordable housing development and operations, by elevating best practices in seeking mission-aligned developers as partners, and the risks of undertaking this work alone or without the right partners.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR ROUNDS FROM JERRY THEODOROU

Q.1. Could you explain the negative consequences to the taxpayer of trying to replace the private reinsurance market?

A.1. Attempts to replace the private reinsurance market with a Government reinsurance program are a fool’s errand. The global reinsurance industry is a sophisticated and creative marketplace that has been providing coverage for climate risks for two centuries. The global reinsurance industry includes dozens of reinsurers mainly concentrated in five geographic locations:

1. Continental Europe, with giants such as Munich Re, Swiss Re, Hannover Re, SCOR, et al.

2. Bermuda
3. [Most] Lloyd's 70+ syndicates
4. The U.S., led by Berkshire Hathaway's National Indemnity Insurance Company and its General Reinsurance subsidiary, Transatlantic Reinsurance, American Agricultural Insurance, Grinnell Re, et al.
5. Asia, led by Japanese reinsurers, Korean Re, China Re, et al.

The origins of the modern reinsurance industry are in mid-19th century Europe, when large urban fire losses in Germany and Switzerland impaired several primary insurance companies, and led to the creation of Cologne Re (now part of Gen Re) in the 1840s, followed by Swiss Re in 1863 and Munich Re in 1880. Today's global reinsurance industry consists of professional reinsurers (companies whose sole business is reinsurance) and hybrid reinsurers (reinsurers which also write primary insurance).

The industry described above is the "traditional reinsurance" industry, which has approximately \$720 billion in aggregate capital. In addition to traditional reinsurance providers, the alternative reinsurance market, consisting of insurance-linked securities (catastrophe bonds), sidecars, fully collateralized reinsurance and insurance-linked warranties, contributes an additional \$100 billion of capital to the reinsurance marketplace.

The reinsurance market, as described above, is competitive and offers a wide range of products. The reinsurance market presents more than just capacity. Because reinsurers take on substantial risk, they engage in research into loss trends, especially into risks that could pierce primary insurance retentions and impact reinsurers. And to protect their own balance sheets from unmanageably large shock losses, reinsurers buy reinsurance for their own portfolios. Reinsurance for reinsurers is called retro, or retrocessional reinsurance.

At a 2007 U.S. Senate Banking Committee hearing on "An Examination of the Availability and Affordability of Property and Casualty Insurance in the Gulf Coast and Other Coastal Regions", Edward Lazear, then Chairman of the Council of Economic Advisers, provided testimony arguing that attempts to introduce a Government reinsurance program are ill-advised. Lazear's central argument against a Federal reinsurance program was that a Government catastrophe risk insurance plan would crowd out the private market, distort rates and undermine economic incentives to mitigate risk.

The private reinsurance market is highly sophisticated, with deep understanding of risk and refined tools to inform pricing and the terms and conditions of its products. No sound argument could be made for replacing such an industry with a Government program.

Q.2. How can we instead use the Federal carrot and stick to provide incentives for mitigation instead of replacing the private market?

A.2. Although it is not necessarily the Federal Government's role to provide carrot and stick to encourage mitigation, one way the Federal Government could incentivize mitigation is by advancing

the “Strengthening Coastal Communities Act of 2023”. This was introduced and marked up in the Senate Environment and Public Works Committee on September 27, 2023. It would expand the acreage in the Coastal Barrier Resources Act by an additional close to 300,000 acres.

Insurers and reinsurers already recognize the ameliorating effect of taking risk mitigation measures. Insurers use a carrot and stick in determining rates, employing bonus/malus or debits/credits according to risk magnitude. If an insured takes measures to harden their home against catastrophe risk insurers in a competitive market will discount the rate—a bonus or credit in the rating methodology. And if a homeowner fails to take measures to protect their home, the rate is raised with a malus, or debit. Prices send signals. Consumers that take risk mitigation measures reduce risk and can experienced lower premiums.

Q.3. Please provide comments on any points or recommendations, such as calls for establishing a Federal reinsurance program, that were made or included in witness testimony during the hearing.

A.3. I made the comment in the hearing that there have been several post-catastrophe attempts over the years to introduce Federal insurance programs. The three enduring legacies of 1992 Hurricane Andrew were to catalyze development of catastrophe models, the creation of the Bermuda property catastrophe reinsurance market—the so-called “class of 1992,” a group of reinsurers focusing on property catastrophe risk, and the creation of the Florida Hurricane Catastrophe Fund (FHCF). The FHCF is a reinsurer to which all Florida insurers are required to cede premium. In the event of a destructive catastrophe that exceeds FHCF’s coverage, there will be a mandatory emergency assessment for all Florida insurers. Looking back at the legacy of 1992, the ever-increasing sophistication of risk models and the development of Bermuda as a major source of capital and expertise for property reinsurance contrast with the continuation of a Government-mandated reinsurer.

Other attempts to introduce Federal reinsurance have foundered. A CBO report reviewed efforts to introduce a Government program, efforts that have failed to materialize. I mentioned at the hearing that other efforts to introduce a Federal reinsurance program included the April 11, 2007, Senate Banking Committee hearing chaired by Senator Chris Dodd, entitled “An Examination of the Availability and Affordability of Property and Casualty Insurance in the Gulf Coast and other Coastal Regions”; the Klein Mahoney bill of the same year; and a bill recently introduced by Rep. Jared Moskowitz. I commented that initiatives to create Government insurance and reinsurance, however well-intentioned, do not succeed. Review of the history of losses generated by the National Flood Insurance Program, on the GAO’s high risk list, and the Federal Crop Insurance Program, are examples of how Government (re)insurance programs not succeeding.

One of the witnesses at the hearing, Mr. Doug Heller, said in his opening comments that “we need a meaningful public-private partnership to address this massive market failure.” He was referring to the reinsurance market when he said “this massive market failure.” There is not a failure in the global reinsurance industry, let

alone one that is massive. The global reinsurance industry has over \$700 billion of capital, and the alternative reinsurance market (cat bonds, fully collateralized reinsurance, et al.) has an additional \$100 billion in dedicated reinsurance capital. Reinsurers deploy their capital against risk. All indications from September 2023 global reinsurance negotiations are that the January 1, 2024, reinsurance treaty renewals will be orderly. Mr. Heller's assertion that "we need a meaningful public-private partnership" and "the way forward is for the Federal Government to provide a catastrophic reinsurance backstop" not only stand on a flawed premise, but also ignore the lessons from past efforts to replace the private reinsurance market with Government programs.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR CRAMER FROM JERRY THEODOROU

Q.1. For California, the FAIR plan only covers about 3 percent of the residents in the State and is supposed to be the insurer of "last resort." Premiums are much more expensive yet less coverage is offered. Analysts have determined some Californians in the programs who may not be close to actual fire zones still have to pay full price because they happen to fall into a zip code that's high risk for fire, rather than their premiums being determined based on the risk-profile of their specific address.

How generally effective has the California FAIR plan been, in terms of pricing, coverage, and promoting wildfire risk mitigation?

A.1. The California FAIR plan has not been satisfactorily effective with pricing, coverage, and promotion of wildfire risk mitigation. The California FAIR plan offers coverage more limited than available in the standard or surplus lines markets. The premium is at below-market rates. The California Department of Insurance has issued orders requiring the FAIR Plan to offer broader coverage, consistent with HO-3 forms. The FAIR plan resisted the Department's orders, and initiated litigation challenging the Department's Order. The FAIR Plan sued the Department a second time after a court ordered the Plan to offer expanded coverage.

I am not aware of wildfire risk mitigation conducted by the California FAIR plan. It is worthy to note that the operational assessment report (linked above) made the recommendation that the Plan's governance committee or a specifically designated subcommittee "focus on enhancing customer and community resilience from the effects of climate change, encouraging and incentivizing fire prevention and risk mitigation." (p. 14 of report) This suggests that the FAIR plan may not be currently engaged in risk mitigation. It is noted that a recent announcement from the FAIR plan indicates it will move in this direction.

The FAIR Plan is described on its website as "a temporary safety net." It is not financially sound. As its president, Victoria Roach, reported in March 2023, "we are not in a good financial position—we are at a breaking point." (source: ALIRT report referenced here) Nevertheless, the market share of the FAIR Plan quadrupled since 2017, when the FAIR plan rose from 0.77 percent of the total market's earned premium to approximately 3 percent today. The extent of FAIR Plan underpricing is reflected in Roach's statement that

the plan is asking the Department of Insurance for a 48.8 percent increase in its dwelling fire rate. Decoupling rate from risk in California in the standard market, which is driving the exodus of insurers from California, is also hurting the financial performance of the FAIR plan. The FAIR Plan reported combined ratios of 143 percent, 168 percent, 185 percent and 158 percent in 2018, 2019, 2020, and 2021, respectively. In addition to a poor income statement, the asset side of the balance sheet is problematic as well, with a large negative surplus—a year-end \$332 million deficit. (report, p. 18) A combined ratio of 100 percent is a break even result. If any insurance company reported as much red ink as did California's FAIR Plan in 2018–2021, it likely would have caused the company's insolvency. The most recent examination of the FAIR Plan conducted by the DOI, from September 2020, also shows poor financial results.

Another problematic feature of the Plan's financials is a return period of 31 years for its reinsurance, whereas the return period for comparable plans, such as at Louisiana Citizens, North Carolina's Joint Underwriting Association, Texas FAIR Plan, and Texas Wind Insurance Association ranges from 100 years to 302 years. This means that FAIR Plan reinsurance purchase is sufficient to cover an estimated 1-in-31-year catastrophe event, whereas other FAIR plans have much more conservative reinsurance purchasing, allowing them to withstand catastrophes that are 1-in-100 or scarcer events. The State's current property insurance environment exposes the extent to which substantial rate increases are needed to deal with existing deficiencies, but the regulatory regime resists change to actuarially unsound rates to protect consumers. The unintended consequence is that consumers are hurt, not protected.

Q.2. What types of granular climate modeling can be made available or is being considered so that fire zones can be assessed at a more granular level than a zip code—ideally helping reduce costs and increase coverage?

A.2. There are several risk models that evaluate risk at granular geographic levels. These include Moody's RMS, AIR's CATRADER, Corelogic's EQECAT, Verisk's FireLine, the First Street Foundation's National Wildfire Model, and the National Risk Index, among others. These may quantify risk at a county, census tract, zip code, or more granular level. The problem with California's current approach, as stipulated in its statute CCR2644.5, is that it requires insurers to price risk on the basis of the average result of the past 20 years. This means that data for more recent years, which are deemed more predictive of loss than the long-term historical average, are diluted. This is why there were arguments at the California State Legislature's information hearings earlier in 2023 to use more forward-looking data (see below).

Q.3. In order to better capture risk and help reduce volatility in pricing, to what extent are there considerations to allow insurers to use forward-looking models to set premiums for hazards where they haven't traditionally been able to use such models—for example like with wildfires in California?

A.3. In June 2023 there was a Joint Informational Hearing held by the California Assembly Insurance Committee and Assembly Emer-

agency Management Committee on “Looking Forward: Insurance and Catastrophe Modeling”. This was reported to have been a productive session. In September 2023, the California Department of Insurance announced that the Department would write new rules about the use of forward-looking models. On its face these may be positive developments. It does, however, remain to be seen whether they will lead to substantive changes or if the announcement was made solely to stem the exodus of insurers from California.

Q.4. Given the increase in financial losses related to extreme weather and other natural disasters and growing concern about the lack of insurance coverage and affordability in some markets, is there an appetite for a nationwide public insurance option for hazards in addition to floods or other public/private risk-sharing mechanisms that could ultimately benefit taxpayers currently covering massive disaster relief costs? What would you recommend to encourage and increase insurance coverage given these risks in these markets today? What is the role of asset-level risk mitigation measures and strategies to better incentive those to reduce loss to both insurers, property owners, and taxpayers?

A.4. There may be a temptation to pursue a nationwide public/private risk-sharing mechanism. Such a program with a Government backstop might include a Government premium subsidy, the Government providing insurance to homeowners, or the Government becoming a reinsurer. All three of these potential structures have flaws that would make them unworkable. If there were Government-provided insurance or reinsurance, private market insurance would be displaced. What is more, a Federal insurance program would destroy incentives to engage in risk management and loss prevention. Finally, a Federal program or Federal backstop would lead to cross-subsidization, where there would be subsidized rates for those people that have elevated risk, distorting the free market and sending the wrong price signals. A 2007 statement by the former Chairman of the Council of Economic Advisors, Edward Lazear, expands on the problems inherent in Federal Government attempts to introduce Federal reinsurance.

There are two ways to increase takeup of insurance by those for whom it is prudent. First, State insurance departments can communicate the responsibility of insurance agents and brokers to adhere to the statutory standard of care which requires them to advise consumers on insurance coverage they should have. Second, insurance departments should include education and information on their websites to communicate to consumers what coverages they should have and why.

Asset-level risk mitigation leads to lower risk and lower premiums. To the extent consumers perform risk mitigation on their property and their premium is credited to reflect the lower risk, incentives are present to continue being good stewards of their property, leading to lower costs for consumers as well as insurers.

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD



MORTGAGE BANKERS ASSOCIATION

September 7, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing
and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing
and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Brown and Ranking Member Scott:

I appreciate the opportunity to provide the perspective of the Mortgage Bankers Association¹ (MBA) regarding challenges within the property insurance market and their impact on consumers prior to the committee's hearing on the issue this week. Property insurance is the first line of financial defense for homeowners, commercial owner/operators, and lenders in the event a property is damaged. The availability and affordability of property insurance impacts these groups directly, but also has downstream impacts on the broader real estate market, including lending, construction, and the availability of affordable housing – for both renters and homeowners.

Consequently, and on behalf of our association's members, I encourage the committee to consider three areas of primary concern for housing consumers regarding insurance: reauthorization of the National Flood Insurance Program (NFIP), assured access to property insurance, and reforms to the FHA-Insured Multifamily Program.

The most immediate insurance challenge before Congress is the expiration of the NFIP on September 30, 2023. Flood insurance is mandatory for any property located in a high-risk area with a mortgage from a federally backed or federally regulated lender. New NFIP policies cannot be issued during a lapse in authorization. Existing policies that are set to expire can only be renewed if the application is received prior to the lapse and the premium is received within the 30-day grace period. Otherwise, policies will not be renewed until the NFIP is reauthorized. Beyond this imminent threat - especially during hurricane season - a long-term authorization is vital to provide needed certainty to homeowners and small businesses that depend on the program for flood damage protection, to protect our residential and commercial real estate markets and to provide stability for the companies and agents that sell and administer the NFIP

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,200 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

MBA Statement for the Record on "Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers."
 September 7, 2023
 Page 2

policies to millions of consumers across the country. A long-term authorization would also enable the NFIP to be reformed to better address commercial and multifamily lending and to incorporate climate change risks.

MBA members are very concerned that private property insurance has reached a point of critical market dislocation. Many insurers and re-insurers have withdrawn from states like California, Florida, Texas, and Louisiana as climate change brings greater severity in weather events and property loss. In some jurisdictions, increasing premiums to match the increasing risk is limited or prohibited by regulation. Western United States wildfires are driving a potential insurance crisis for many property owners, and recent studies indicate that decreased insurance availability and affordability may already be affecting the housing market in wildfire-exposed areas.² As the length and severity of fire seasons are increased and become more severe, it is possible that this crisis will expand in California and other states. Hurricane damage is another example of how catastrophic events are impacting insurance and housing markets. Hurricane Ian, a category 4 hurricane that struck Florida in September 2022, is estimated to be the costliest Florida hurricane ever.³ Other perils are likely also being magnified, as evidenced by the frequency of inflation-adjusted, billion-dollar disasters over the last decade in the United States.

Today, as the risks increase, insurance coverage is either outright unobtainable or simply unaffordable. Insurance companies have significantly raised premiums (to the extent permitted) to price for increased risk and surging property replacement costs. Commercial property premiums increased 20.4% in the first quarter of 2023, the largest increase in 20 years, and the 22nd consecutive quarter with premium increases, mainly due to catastrophic insurance premiums.⁴ However, even with higher premiums, insurance (and re-insurance) companies still face significant financial loss and thus have withdrawn their offerings in high-risk areas, as reinsurers have also tightened standards. Fully 85% of brokers surveyed said insurers pushed for updates to replacement values and recent improvements, with significant tightening in catastrophic exposed properties.⁵

MBA commercial lenders have reported the need to either "force-place" insurance or decide not to fund a loan due to insurance issues. No homeowner or commercial property owner can cover the cost of a catastrophic loss alone. I encourage the committee to work with states and other stakeholders to address the availability and affordability of property insurance and promote market stability and insurer solvency.

The FHA-Insured Multifamily Program must also be reformed to align with the present realities of insurance markets. Wind and Named Storm insurance coverage is justifiably a requirement for FHA Property General Liability insurance policies in specific areas and states. However, this coverage is difficult to place in the insurance market due to a lack of availability. In markets

² "The Impact of Wildfires on Rent & Home Prices." September 3, 2021.

<https://www.corelogic.com/intelligence/the-impact-of-wildfires-on-rent-home-prices/>

³ "Hurricane Ian could be Florida's costliest storm ever." September 30, 2022.

<https://www.cnn.com/2022/09/30/business/hurricane-ian-cost/index.html>

⁴ Commercial Property/Casualty Market Index Q1 2023. ciab.com/download/37415/?tmstv=1684334546

⁵ Commercial Property/Casualty Market Index Q1 2023. ciab.com/download/37415/?tmstv=1684334546

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where insurance is available, the deductibles are often much higher than HUD's allowable maximum deductible. In these situations, borrowers are forced to purchase deductible "buy down" coverage to meet HUD requirements. If buy down coverage is available, the cost can add tens of thousands of dollars to the insurance and operating cost of HUD-insured projects. This additional cost is detrimental to the program's mission and creates hardship for all properties, but especially for affordable projects with restricted rents that are unable to be increased to cover unexpected operating costs. As the insurance market continues to evolve, HUD's criteria must evolve as well. I urge the committee to conduct oversight of the FHA insurance requirements found in the [MAP Guide](#) 3.9.2.4 to make FHA Multifamily responsive to the urgent need for affordable housing.

A closely related challenge is that, as storms increase in frequency and intensity, developers are utilizing stormwater detention ponds to protect their property. However, HUD considers any water sources shown on a National Wetlands Map prepared by the U.S. Fish and Wildlife Agency to be a wetland – even a newly-built stormwater detention pond. HUD then incorrectly requires borrowers to record a Restrictive Covenant on the stormwater pond as if it were wetlands. This policy is contained in the [MAP Guide](#) 9.6.7. Detention ponds require frequent maintenance to function and are clearly not wetlands. HUD should therefore not require a Restrictive Covenant but instead review its guidance to encourage – or at least not penalize – developers who utilize these measures to mitigate storm risks.

I commend the committee for holding this timely oversight hearing. MBA looks forward to working with you and other committee members to advance bipartisan solutions to these three primary areas of concern.

Sincerely,



Bill Killmer
 Senior Vice President
 Legislative and Political Affairs

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September 6, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Re: September 7, 2023 Hearing entitled "Perspectives on Challenges
in the Property Insurance Market and the Impact on Consumers"

Dear Mr. Chairman and Ranking Member Scott:

I am writing on behalf of Minicap LLC, a limited liability company, established under D.C. law in 2018 to further the legal needs and interests of small captive insurance companies established and operated in accordance with Internal Revenue Code 831(b), 26 U.S.C. §831(b). Thank you for holding the above-referenced hearing. The purpose of this letter is to share with you a summary of small captive insurance and an explanation of how it might contribute to a solution to the burgeoning crisis in the U.S. commercial property and casualty insurance market. I respectfully request that this letter be included in the hearing record.

By enacting Internal Revenue Code 831(b), Congress incentivized small and medium businesses to create affiliated insurance companies to issue customized insurance policies that provide coverage for risks that otherwise would be too expensive to insure or for which tailored coverage is not available in the commercial marketplace. The small captive insurance company may elect to pay a significantly simplified alternative tax based only on its investment income in any year that its annual

premium is at or below a legislated ceiling (since 2015, set at \$2.2 million, indexed annually for inflation). The insured may deduct premiums paid as a usual business expense under IRC section 162.

The current crisis in the insurance and reinsurance industry is resulting in fewer commercial insurance coverage options, dramatically increasing premiums and deductibles and expanding coverage exclusions. The insurance pullback is happening across the country as commercial insurers face inflation, more frequent wildfires, and more damaging weather disruptions. While press reports tend to focus on homeowners insurance, businesses are facing the same impossible choices with regard to their property insurance options. Small captive insurance is a viable alternative for affordable coverage of volatile liability and casualty risks, including those caused by sudden changes in the weather.

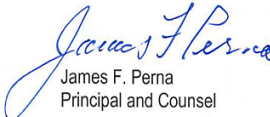
Despite consistent bipartisan congressional support for small captive insurance, the IRS appears to be engaged in a concerted effort to dissuade new entrants into the small captive insurance market and drive out those already involved in the industry by alleging systematic and undefined abuses and refusing to restrict its enforcement actions to fraudulent or abusive small captives. Its misguided approach is harming the American economy and putting our small businesses at risk of suffering catastrophic losses.

The Senate Finance Committee has been engaging with IRS Commissioner Werfel to encourage the IRS to work with small captive insurance companies and related stakeholders to find a mutually-agreeable and fair path forward that would ensure that small businesses may continue to rely on small captive insurance to cover their property and casualty insurance needs.

We urge you and other Committee members to work with the Finance Committee and to press back against IRS's approach to small captive insurance.

Your consideration is appreciated

Sincerely yours,


James F. Perna
Principal and Counsel



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS



September 12, 2023

Chairman Sherrod Brown
Committee on Banking, Housing,
and Urban Affairs
United States Senate
503 Hart Senate Office Building
Washington, DC 20510-3505

Ranking Member Tim Scott
Committee on Banking, Housing,
and Urban Affairs
United States Senate
104 Hart Senate Office Building
Washington, DC 20510

Re: September 7, 2023, hearing titled: “Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers”

Dear Chairman Brown and Ranking Member Scott:

On behalf of the National Association of Insurance Commissioners (NAIC)¹, we appreciate the opportunity to submit this letter for the September 7, 2023, hearing titled: “Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers.” As the primary regulators of this sector, state insurance regulators are on the frontlines of natural catastrophe preparedness and response, protecting policyholders and maintaining well-functioning property insurance markets. We have long been committed to monitoring and addressing challenges in the property insurance market and their impacts on consumers.

For more than 150 years, from the first fire insurance policies influencing building codes, to today’s record-breaking hurricane and wildfire seasons driving population shifts, state insurance regulators have developed extensive experience and insight into the macroeconomic forces shaping property insurance markets and have strived to develop tools and rules to balance industry solvency with fair treatment for policyholders.

Certainly, there are many factors and forces that impact property insurance market availability and affordability, from reinsurance costs to inflationary pressures, to labor and material supply, to litigation and broader macroeconomic conditions. However, the context for this hearing is the impact of recent natural disaster losses in creating property insurance availability and affordability challenges for a number of regions across the United States. These dynamics can vary within a relatively small geographic area, so while a state’s property insurance market may be generally healthy overall, there can be localized protection gaps that challenge certain communities or that impact some insurers more than others. While this is not the first time state regulators have seen such cyclical growth and contraction in property insurance markets in response to weather

¹ As part of our state-based system of insurance regulation in the United States, the NAIC provides expertise, data, and analysis for insurance commissioners to effectively regulate the industry and protect consumers. The U.S. standard-setting organization is governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. For more information, visit www.naic.org.



frequency and severity, state insurance regulators have pursued a number of initiatives more recently to promote market stability and more access to insurance.

State insurance regulators, through the NAIC, have had a climate-risk working group for more than a decade, which in 2020 evolved into our Climate and Resiliency Task Force. The Task Force serves as the coordinating NAIC body for discussion and engagement on climate-related risk and resiliency issues. This Task Force builds on existing efforts to address the economic consequences of natural disasters, including efforts to mitigate their toll. While the role of the climate in influencing the frequency and severity of natural disasters has received more specific attention over the last decade, our work is built on decades of expertise and experience in managing the economic fallout of these disasters.²

Climate risk and the impact of extreme weather will remain an evolving risk, forcing us to adapt – something state regulation has and will continue to do – but we have laid the proper foundation to address it throughout our state-based regulatory system focusing on: (1) climate financial risk analysis; (2) the availability and affordability of insurance; and (3) stakeholder risk awareness and engagement. We also continue to advocate for resiliency and mitigation efforts that can reduce the risk of property loss, keeping people in their homes and businesses open.

Building on that foundation, the Climate Risk and Resiliency Task Force has taken several important steps that we would draw your attention to.³

First, a bipartisan and growing group of state insurance regulators adopted a new standard for insurance companies to report their climate-related risks, in alignment with the international Task Force on Climate-Related Financial Disclosures (TCFD). The TCFD standard is the international benchmark for climate risk disclosure and will help insurance regulators and the public to better understand the climate-related risks to the U.S. insurance market, which is the largest in the world. As of 2022, 15 states and territories utilize the survey, which represents nearly 80% of direct written premium nationwide and this year we expect 26 states to participate in the survey.

Second, state insurance regulators have updated the NAIC's Risk Based Capital (RBC) formula to include specific charges for hurricane, earthquake, and most recently wildfire risks. State insurance regulators use the RBC formula to monitor the capital adequacy of insurers to ensure their ability to pay claims following catastrophic events. The NAIC is currently considering adding severe convective storms as a modeled loss for insurers to report as a separate peril. We are also considering updates to the NAIC's financial examination materials and guidance manuals to reflect climate related risk within financial solvency tools as well as exploring how insurers are using scenario analysis to assess climate related risk internally.

² See NAIC November 11, 2021, Comment Letter <https://content.naic.org/sites/default/files/testimony-letter-response-fio-rfi-climate-financial-risk-211111.pdf>

³ See Executive Committee Task Force on Climate and Resiliency National Association of Insurance Commissioners June 2023 Progress Report, <https://content.naic.org/sites/default/files/draft-annual-progress-report-summary-2022.pdf>



NAIC GOVERNMENT AFFAIRS

Third, state regulators and the NAIC, in coordination with FEMA, continue to build consumer awareness and support risk reduction measures to create more resilient and sustainable communities. The NAIC has also partnered with the Institute for Business and Home Safety (IBHS), which publishes experimental research, identifying and describing home hardening actions that reduce losses. Building on the IBHS' work, several states, including Alabama, Florida, Louisiana, North Carolina, South Carolina, Oregon, and California, have successfully implemented state-level mitigation programs to provide financial assistance to homeowners for reducing risks to their home or business. To help facilitate access and establishment of such mitigation programs, the NAIC has established a dashboard of risk mitigation programs.⁴

Fourth, last year the NAIC established a Catastrophe Model Center of Excellence within the NAIC's Center for Insurance Policy and Research to provide resources for state insurance regulators, including access to catastrophe model documentation, technical education and training, and applied research to proactively address regulatory climate risk and resilience priorities. The Center of Excellence works with catastrophe modeling providers to understand how climate change is or is not incorporated into their models and provides this information to state insurance regulators. By doing so, it enables state insurance regulators to better comprehend the use of these models in projecting risks and losses and identifying factors that could either increase or reduce risks.

Fifth, at the 2023 NAIC Summer National Meeting, state regulators announced a plan to issue a data call aimed at helping state insurance regulators collect data from insurers to better understand property markets and coverages as well as protection gaps. This data call, and subsequent analysis, is expected to focus on challenges around the availability and affordability of property insurance and state regulators have the authority to then act on insights gained from this data and analysis.⁵

Overall, our state-based insurance regulatory system has developed an extensive set of tools to assess and analyze insurer's solvency and liquidity and protect insurance consumers, and it is accustomed to adapting to an evolving risk landscape both today and in the future. However, while our regulatory system is well equipped to oversee the sector, and efforts to mitigate property insurance risk are impactful, there are no easy answers or silver bullets to address rising costs to protect what is, for many, our largest investment – our homes. The cost and availability of property insurance reflects the inherent risks facing those investments and is a clear indication that the true cost of homeownership is not just the cost to obtain a home, but the cost to protect it as well.

Certainly, there are a number of ways Congress can play an important role in helping improve the resilience of our housing stock and driving down the cost of insurance, but we would direct your attention to two in particular. First, recent hurricanes have illustrated the critical importance of flood insurance as many of the losses are caused by water, not wind.

As we enter what is anticipated to be another historically active hurricane season, and off the back of Florida suffering yet another large storm, the NAIC urges action on a long-term reauthorization of the NFIP before it expires on September 30, 2023. A long-term extension will help provide

⁴ <https://content.naic.org/sites/default/files/inline-files/State%20Mitigation%20Programs.pdf>

⁵ <https://content.naic.org/article/naic-issue-data-call-help-regulators-better-understand-property-markets>



certainty for policyholders in their efforts to prepare for flood disaster. A continuation of temporary extensions will only impair consumers' ability to plan, particularly when considering that most flood insurance policies do not take effect until 30 days after purchase.

We would also encourage Congress to utilize NFIP reauthorization as an opportunity to facilitate greater growth in the private flood insurance market to help provide consumers with additional choices for flood insurance products. Over time, this additional competition and shift of risk from a federal program to the private market could help lessen the exposure of U.S. taxpayers to the types of catastrophic flood losses that now reside as unpaid debt on the NFIP's books. It is critical to ensure that private flood insurance meets the continuous coverage requirement, so policyholders have a choice to return to the NFIP without penalty, including not losing any subsidy they previously had with the NFIP.

It is also imperative that reauthorization legislation include measures to encourage investment in prevention and preparedness to help minimize the impact of flood damage and economic loss. It is estimated that for every dollar we invest in mitigating future natural hazards like flooding we save six dollars.⁶ We support the inclusion of mitigation discounts, such as premium discounts or insurance rate reductions to persons who build, rebuild, or retrofit their properties to better resist flood events, and allowing individuals to set aside funds in a tax-preferred savings account for disaster mitigation and recovery expenses.

Significant investment in preparation and mitigation could result in substantial savings in federal disaster relief. As discussed above, states are leading resiliency initiatives throughout the country and establishing mitigation grant programs to support homeowners' efforts to retrofit their homes. Encouraging mitigation not only reduces risks to homeowners, but to the insurance companies who provide them coverage.

Secondly, while promoting mitigation planning is a shared state and federal goal, there is inconsistent tax treatment of state and federal disaster mitigation grants. Congress has excluded grants provided through the Federal Emergency Management Agency from federal income tax, but state grants, including those offered by state established residual market mechanisms, for the same purpose are, in many cases, subject to federal income tax even if they are exempt from state income tax. This reduces both the impact of the grant and the incentive to pursue them. The bicameral bipartisan Disaster Mitigation and Tax Parity Act of 2023 (S. 1953 / H.R. 4070) would fix the inconsistency and provide parity for residential mitigation grants provided by state public entities. As we continue to experience the devastating effects of natural disasters, it is more important than ever to encourage residents and homeowners to utilize pre-disaster mitigation programs.

In conclusion, as state officials, we are perhaps closer to the consumers and businesses impacted by natural catastrophes than any other primary financial regulator. We are on the front lines assisting consumers with policy questions and talking to businesses about their concerns. We are committed to do all that we can to support our communities and remain committed to continuing

⁶ National Institute of Building Sciences, Natural Hazard Mitigation Saves: 2019 Report (December 2019), https://www.nibs.org/files/pdfs/NIBS_MMC_MitigationSaves_2019.pdf



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to work with our federal, state, and local partners to help our country address the devastating personal and economic impacts of natural disasters. Thank you for considering the state insurance regulatory perspective. We look forward to continued engagement with you as we work together to respond to ongoing insurance market challenges.

Sincerely,

Chlora Lindley-Myers
NAIC President
Director
Missouri Department of Commerce and Insurance

Andrew N. Mais (He/Him/His)
NAIC President-Elect
Commissioner
Connecticut Insurance Department

Jon Godfread
NAIC Vice President
Commissioner
North Dakota Insurance Department

Scott White
NAIC Secretary-Treasurer
Commissioner
Virginia Insurance Department



Introduction

The National Association of Mutual Insurance Companies (NAMIC) is pleased with the opportunity to provide testimony for the Senate Banking Committee's hearing on "Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers."

NAMIC is the largest property/casualty insurance trade group with a diverse membership of more than 1,500 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC member companies represent a cross-section of the property/casualty insurance industry ranging in size from a one-person farm mutual operating in a single county to local and regional insurers on main streets across America to national insurers operating throughout the country and around the globe.

NAMIC members write \$391 billion in annual premiums, accounting for 69 percent of the homeowner's insurance market, 56 percent of the auto market and 31 percent of business insurance markets. Through our advocacy programs, we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve, and we foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.¹

A New Era of Risk

As the world grows increasingly populated and climate change looms, we have seen a confluence of factors affect not only the insurance industry, but the country as a whole and, most importantly, everyday consumers. Some of these factors we will discuss in more detail below, ranging from inflation and the reinsurance market to regulatory hurdles and legal system abuse, to the need for strengthening our built environment – all of which have increased costs across the board.

Current insurance industry dynamics are unprecedented, and the phrase "everything, everywhere, all at once," may best describe the dimensions of the challenges insurance companies face. With major risk-events occurring at the same time, significant disruptions are affecting all lines of business, all types of policyholders, in virtually every part of the country, with certain regions more impacted than others.

According to AM Best, the insurance industry recorded a net underwriting loss of \$5 billion in 2021. In 2022, that number skyrocketed to \$26.5 billion.² Already in 2023, severe convective storms have caused \$34 billion in insured losses in the United States, and that was only at the half-way point in the year.³ While in aggregate increasing severity and frequency of climate/weather events is a contributor to these developments, it is in addition to the mix of other factors – including rising materials and labor costs, reinsurance rate hikes, regulatory hurdles, legal system abuse, and people moving en masse to riskier areas of the country.

¹ <https://www.namic.org/aboutnamic/overview>

² <https://news.ambest.com/newscontent.aspx?refnum=248590&altsrc=177>

³ <https://www.swissre.com/press-release/Severe-thunderstorms-account-for-up-to-70-of-all-insured-natural-catastrophe-losses-in-first-half-of-2023-Swiss-Re-Institute-estimates/cea79f3c-6486-41a8-9c6e-09d1260efe30>



Climate + Weather

This is an unparalleled time for engaging on climate-related matters. Extreme weather is reaching a new level of attention in the national spotlight, and rightly so. When tracking billion-dollar weather and climate disasters, as done by the National Oceanic and Atmospheric Administration, it is clear these costly events are on the rise. The 1980–2022 annual average of such events is 8.1 (CPI-adjusted), while the annual average for the most recent five years (2018–2022) is 18 (CPI-adjusted).⁴ Looking at 2023, as of Aug. 8, the U.S. has experienced 15 confirmed weather/climate disaster events with losses exceeding \$1 billion each, resulting in the deaths of 113 people, with significant economic effects on the areas impacted.⁵ And the year is not over; these figures do not include the recent Hawaii wildfires or Hurricane Idalia that hit Florida, South Carolina, North Carolina, and Georgia just last week.

The changes in damage costs are yielding sweeping concerns about availability/affordability challenges on a large scale, but this does not necessarily need to be a foregone conclusion. This is not a new issue for property/casualty insurance. Since its inception, the property/casualty industry has concentrated on extreme weather and focused on seeking ways to minimize and mitigate the physical and financial effects of climate events on policyholders.

A concerning pattern insurers have noticed is the uptick in consumers moving more frequently into areas with some of the highest risks of natural disasters. Since 2010, Florida has added close to 3 million people. Fort Myers – an area that was severely impacted by Hurricane Ian’s deadly storm surge in September 2022 – was recently named the sixth fastest-growing city in the country by the US Census Bureau.⁶ According to Redfin, counties with the highest risks of wildfires and flood have enjoyed a post-pandemic net bump in population.⁷ While resiliency and mitigation are vital pieces of the puzzle, there is only so much these two pieces can address when more people are moving into areas with heightened and growing risks. While a difficult political feat, land use and controlling how much development is allowed in environmentally sensitive areas is a key part of the discussion. After all, if we continue to expand building in areas most vulnerable to weather events, then we cannot be surprised to find losses and devastation also on the rise.

Annual contracts allow insurers to regularly evaluate changes to many risks, including climate risk, and to react quickly and incrementally to changing conditions. Insurers play a critical role in the time leading up to, in the midst of, and in the aftermath of natural catastrophes, they often communicate with policyholders to share information about extreme weather and prepare for such events. Insurers also help policyholders put their lives back together after disasters strike.

Inflation

Further complicating the current insurance marketplace are the increased costs associated with rebuilding in the wake of more frequent disasters. Consumer inflation in the U.S. in 2022 reached a four-decade high, bringing along rising interest rates. This turbulence has led to inflationary pressures on materials and labor costs and exacerbated climate change impacts on the industry. When a home or business is damaged, insurance companies look at the valuation of a property,

⁴ <https://www.ncel.noaa.gov/access/billions/>

⁵ <https://www.ncel.noaa.gov/access/billions/>

⁶ <https://www.census.gov/newsroom/press-releases/2022/fastest-growing-cities-population-estimates.html>

⁷ https://www.wsj.com/real-estate/rising-insurance-costs-start-to-hit-home-sales-d87870f?mod=hp_lead_pos2



and any repair or construction is valued at a certain number. Increased construction costs due to labor shortages, rising materials costs, and well-documented supply chain issues in some cases have resulted in insurance companies spending more to rebuild than they have collected in premiums.

According to an analysis by the Insurance Information Institute, home replacement costs jumped by a cumulative 55 percent from 2019 to 2022.⁸ More severe and frequent weather events continue to wreak havoc on the country just as these prices continue to soar, with the backdrop of insured losses multiplying year over year. Construction material prices increased 24.4 percent in just two years from 2020 to 2022, per the National Roofing Contractors Association.⁹ In general, construction costs hit their highest point in 50 years in early 2022.¹⁰

Turning to specific materials, the U.S. Forest Service reports that during the first year of the pandemic, “wood products such as softwood lumber and plywood nearly quadrupled. Wholesale prices for plywood increased from \$400 to \$1,500 per thousand square feet (roughly equivalent to retail prices of plywood increasing from about \$12.80 to \$48.00 per sheet).”¹¹ Since March 2020, copper prices have risen 125 percent and in 2021 broke an all-time high of \$10,724.50 per metric ton, a record that was subsequently broken in March of 2022 when it hit \$10,730. By August 2022, rates had dropped to around \$8,000 due to recession fears, however, copper is back on the upswing and has risen to \$9,300.¹² Copper is one of the top three most used materials, a vital component in the construction of homes.¹³ When these and other prices go up so drastically, the prices of homes go up, in turn making them more costly to insure.

Layered onto this backdrop of inflation is the impact of natural catastrophes when there may be a localized surge in demand. When many consumers need repairs at the same time, access to supplies and to contractors may be even more limited and costly.

Social Inflation + Legal System Abuse

Social inflation is a dynamic phenomenon that is growing in volatility, scope, and public interest. There is no universal agreement about the causes, which are complex, or the solutions. Its damaging consequences are palpable, however, for businesses, consumers, and the rule of law. The U.S. Chamber of Commerce’s Institute for Legal Reform finds that U.S. tort costs, which reached about \$443 billion in 2020, were equivalent to 2.1 percent of GDP. Costs had steadily increased at an average annual rate of six percent from 2016 to 2020, outpacing the growth in inflation and GDP over the same

⁸ <https://www.iii.org/insuranceindustryblog/category/industry-financials/#?text=%F2%80%9CA%20cumulative%20replacement%20cost%20increase,primarily%20due%20to%20rate%20increases.%F2%80%9D>

⁹ <https://www.nrcanet/RoofingNews/construction-material-prices-are-24-4-higher-than-a-year-ago-4-14-2022-10422/details/story>

¹⁰ <https://www.nbcdfw.com/news/local/construction-costs-hit-highest-spike-in-50-years/2891677/>

¹¹ <https://www.fs.usda.gov/features/how-pandemic-drove-cost-wood-products>

¹² <https://www.institutionalinvestor.com/article/2bst5dwe3r3dng0035s/innovation/five-reasons-copper-prices-have-risen>

¹³ <https://www.usgs.gov/centers/national-minerals-information-center/copper-statistics-and-information>



period.¹⁴ The Institute for Legal Reform found that for jury verdicts of \$10 million or more, the median verdicts increased by 27.5 percent from 2010 to 2019, far outstripping inflation of 17.2 percent over the same period.¹⁵

The insurance industry is not immune to this phenomenon. Class action lawsuits and nuclear verdicts force companies to absorb massive losses that have downstream effects on business operations and the prices of products. Some of the causes of social inflation are third-party litigation funding/financing, an increase in very large verdicts influenced by psychological factors, advertising that numbs potential jurors with respect to reasonable case values and business motives, anchoring, and scare tactics used by plaintiffs' attorneys. With legal system abuse driving up costs for insurers and consumers, some states recently have taken proactive corrective measures. Tennessee, for example, passed landmark reform to curb the abuses of third-party litigation funding – a major function source of legal system abuse. Louisiana also addressed tort reform in 2020, correcting some of the legal abuse that leveraged motor vehicle accidents.

Perhaps no state has been more focused on insurance issues – and specifically its litigation landscape – than Florida. Florida has 9 percent of homeowner property claims, but accounts for an astonishing 79 percent of lawsuits filed nationwide related to property claims.¹⁶ Insurers spent more than \$3 billion in 2019 alone fighting these lawsuits.¹⁷ As insurers have been unable to survive the litigious environment paired with the climate disasters, the Florida Legislature held an emergency session to pass a comprehensive tort reform package earlier this year. This package included provisions covering third-party bad faith, comparative negligence, fee multipliers, one-way attorneys' fees, statute of limitations, transparency in damages, and premises liability. Since the tort reform was enacted, four new companies have entered the Florida market, according to the state's Office of Insurance Regulation.¹⁸

Regulatory Hurdles

With the heightened focus from the federal government and the various functional state regulators who oversee the insurance industry, we have seen far more proposals than in previous years to address some difficulties insurers are confronting. Yet, perhaps with the best intentions, many regulators have been proposing, and in some states, passing, new regulations that do more harm than good to consumers by creating a regulatory environment that exacerbates the challenges consumers face.

In addition to severe weather, inflationary pressures, and legal system abuse, state insurance markets are sometimes negatively impacted by their own regulators. For insurers, and regulators, there are essentially two vital operations, each with its own guiding principle – setting rates for coverage and paying claims. For the former, insurers strive for accuracy in

¹⁴ <https://instituteforlegalreform.com/wp-content/uploads/2022/11/Tort-Costs-in-America-An-Empirical-Assessment-of-Costs-and-Compensation-of-the-U.S.-Tort-System.pdf>

¹⁵ https://instituteforlegalreform.com/wp-content/uploads/2022/09/NuclearVerdicts_RGB_FINAL.pdf

¹⁶ <https://www.iii.org/press-release/triple-i-extreme-fraud-and-litigation-causing-floridas-homeowners-insurance-markets-demise-062322>

¹⁷ <https://www.preventionweb.net/news/big-reason-florida-insurance-companies-are-failing-isnt-just-hurricane-risk-its-fraud-and>

¹⁸ <https://flor.com/newsroom/archives/item-details/2023/08/14/florida-s-insurance-market-continues-growth-following-historic-reforms-to-property-casualty-market>



evaluating the risk a would-be insured presents so that the rate offered is enough to cover the risk. For the latter, a major focus is on solvency, or ensuring that companies have the funds to fulfill their obligations to their policyholders, which is the most important principle for the industry.

More broadly, states can help insurance consumers by acting on the insurance axiom that rate follows risk. From an insurance regulatory standpoint, the states that do things right are those that do not impair insurers in assessing risk as accurately as possible, and provide swift, fair, and efficient action where regulatory approvals/actions are required. These insurance fundamentals have unfortunately been sidelined in California. Climate-change fueled events have laid bare the flaws in California's regulatory system, which was largely established through the voter-approved Proposition 103 in 1988. The current regulatory regime ignores decades of development in climate and actuarial science, requiring that wildfire risk be priced based upon an insurer's average wildfire losses over the past 20 years as opposed to allowing CAT modeling that looks forward into the future. This means rates in California also cannot reflect some of the most important shifting realities, such as the extensive housing growth in high-risk regions, or increased fuel load following years of drought and fire suppression strategies.

There is no doubt that risks facing California's consumers have grown considerably in recent years, but the California Department of Insurance has been slow to approve rates that would reflect that increase, perhaps given the reluctance of elected officials to increase costs for their constituents. Insurance differs from other businesses because its actual cost to the business is unknown at the time the product is sold. Rather, it is based on estimates and predictions about risks and potential future costs to enable the contractual transfer of a customer's specified and defined risk to the insurer. The issuance of a policy and collection of premium happens up front, which makes regulatory efficiency vital for companies. Slowed approvals or denials for rate increases required to keep pace with increasing risk profiles and costs are enormously damaging to the marketplace. News reports have highlighted that filing approaches are a factor behind the recent decisions by different insurers retreat from the state. Simply put, if the rates they are allowed to charge do not keep up with rising loss costs, then insurers may be forced making difficult decisions, which may include a "survival mode" approach in which they may determine that fulfilling their obligations to existing customers must be put ahead of growing business by attracting new policyholders.

Insurance is regulated at the state level for a very good reason, as localized risks and conditions require the oversight of a local authority. Some risks facing individual states are unique, may create unique problems, and may require unique solutions from those who understand those risks best. That being said, there are guiding principles for a healthy insurance marketplace, which should include flexibility on behalf of regulators and industry alike with swift and fair rate adjustments that align with the risk and costs, which ultimately ensures solvency and fosters consumer protection. A healthy marketplace is diverse and has a variety amongst its different competitors. Not all insurers are the same, so requirements must be proportional and recognize the nature, scale, and complexity of an insurer's business. Acting consistent with insurance fundamentals, state regulators are the best positioned to ensure that the principles stated above are appropriately in place in their markets.



Reinsurance

Just as insurers help spread the risks facing policyholders, reinsurers assume risk from insurers. As climate-related risks increase and contribute to more losses, this has also fueled increasing rates for reinsurance coverage. Reinsurance rates are not regulated or reviewed as stringently as those for primary coverage, and unlike market consumers, insurers have little recourse in challenging rate increases. According to a July report from reinsurance brokerage Guy Carpenter, reinsurance rates rose between 10 percent and 50 percent globally during July 1 renewals and between 20 percent and 50 percent for property catastrophe coverage in the U.S.¹⁹ Another broker, Gallagher Re, said U.S. reinsurance rates for policies that had claims for natural catastrophes rose 30-50 percent during July renewals, while in Florida the increase was 30-40 percent.²⁰

These stark increases, which followed similar changes in renewals earlier this year, only underscore the growing risk from climate change and other global events that affect insurers, particularly in California where these increases are not allowed in the rate setting process. With issues surrounding reinsurance compounded by various other factors, insurance companies have made the difficult decision to exit risky markets such as California and Florida or limit their business within the states.

Looking Forward

In looking at the confluence of multiple factors contributing to the current state of insurance markets, it is not only climate change that has backed insurers and consumers into this corner. From a public policy standpoint, the property/casualty insurance industry has been focused on climate issues for decades on Capitol Hill, working to advance mitigation and resiliency policies to reduce the effects of climate risk, particularly following Hurricane Katrina in 2005. Equally as important will be efforts to foster and improve state insurance marketplaces and get legal system abuse under control.

One of the most important things that states can do to improve markets is maintain a fair and efficient regulatory environment that appreciates and recognizes the importance of evaluating risk when setting rates. Limiting, or in some cases prohibiting, data that insurance companies use to appropriately tailor policies to the consumer puts insurers' obligations to consumers and the ability to maintain proper solvency levels at risk. Additionally, ensuring the judicial system is transparent with an emphasis on just and balanced outcomes is vital to the continued growth of a healthy marketplace.

As the industry and policymakers contemplate solutions to these growing problems, state, local, and federal governments can help their constituents by promoting policies that improve the built environment and ensure the nation's most vulnerable communities have the tools they need to build more resilient structures and homes. Stronger, more resilient communities that work to mitigate the growing risks of severe weather will also help reduce economic losses. Going further, state and local government should consider a more cautious approach to land use and fully assess the impact of development in environmentally sensitive or high-risk areas on the community as a whole.

¹⁹ <https://www.guycarp.com/company/news-and-events/news/press-releases/july-2023-renewals.html>

²⁰ <https://www.reuters.com/world/us/us-property-catastrophe-reinsurance-rates-rise-up-50-july-1-report-2023-07-03/#:~:text=U.S.%20reinsurance%20rates%20for%20policies,the%20risk%20of%20heavy%20losses.>



Along the lines of matching risk to rate, one of the most basic and important steps is the adoption of statewide building codes in addition to providing the funding necessary to enforce them. The federal government can help with resources (like the Building Resilient Infrastructure and Communities Program) dedicated to pre-disaster mitigation funding for vulnerable communities. Through cutting-edge research by the Insurance Institute for Business & Home Safety, it has been shown that small tweaks to building codes, such as using roof straps or rings-shank nails, can be the difference between a home standing or being destroyed during a natural catastrophe. The broader financial impact is equally impressive, according to research by the National Institute of Building Sciences, adopting model building codes saves \$13 in losses per \$1 spent.²¹ Better still, it's worth remembering that stronger buildings help save lives.

NAMIC has always been a thought leader in Washington and across the country advocating for policies increasing investments in mitigation to draw down disaster costs and losses. As a founding member of the BuildStrong Coalition, NAMIC has been instrumental and steadfast in its support for climate resiliency and improving the built environment. In 2018, after years of the insurance industry working to advance policies designed to better shield communities in the face of severe extreme weather, the Disaster Recovery Reform Act (DRRA) was signed into law. The DRRA is a historically significant disaster reform law that contains a host of policies designed to significantly boost the nation's pre-disaster funding mechanism, which included the creation of the BRIC Program.

NAMIC was pleased recently to see Fiscal Year 2022 BRIC selections totaling nearly \$3B announced by the Federal Emergency Management Agency, which cover projects across a diverse geographic scope in all 10 FEMA Regions.²² As FEMA Director Deanne Criswell stated, "it is also paramount to build resilience before disasters strike," and these efforts go a long way towards lessening the financial burden of recovery efforts. NAMIC also continues to press Congress to fund more mitigation projects to reduce risk and better protect America's communities from future extreme weather events, which is why we urge Congress to reintroduce the Resilient AMERICA Act, H.R. 5689 in the 117th Congress, as the next wave of transformational disaster and climate reform efforts. This significant legislation would boost funding for the BRIC Program and create new resources and incentives for states and communities to adopt and enforce modern constructions standards and building codes.

Conclusion

There is no industry more affected by changes in severe weather and climate or more sympathetic to the victims of the increasing natural disasters than the property/casualty insurance industry. America's insurers have paid and continue to pay billions of dollars every year to help policyholders recover from extreme weather events. While increased natural disasters continue to contribute to more insured losses, other factors such as increasing prices for materials and labor, higher reinsurance costs, legal system abuse, population shifts to riskier areas, and other inflationary pressures are crucial to consider when getting the full picture.

²¹ https://www.nibs.org/files/pdfs/ms_v4_overview.pdf

²² [FEMA Announces Nearly \\$3 Billion in Funding Selections to Drive Resilience to Climate Change and Extreme Weather Events](#)



Property/casualty insurers exist to protect policyholders consistent with an agreement to be the financial first responders for homes and businesses. The mutual model provides a proven structure built on a foundational principle of serving policyholders.

When the current pressures and challenges are ignored, and at times made worse by some regulators, an insurer may decide it needs to reassess its business approach, and in some instances that decision may be that it feels forced to withdraw, either entirely or from specific lines of business. When this perfect storm of convergent events occurs, markets become unhealthy and competition diminishes, which provides fewer choices for consumers. We have seen the most success when regulatory regimes instead partner with the insurance industry to encourage innovation and provide tools such as advanced models and products, especially in light of elevated risk in the marketplace. This allows the industry to find new and better ways to serve existing consumers and take on new ones.

Businesses, including insurers, are not designed to sell products for less than what it costs to provide them. Insurance markets thrive when they can manage risk through adequate rates. Generally, when more insurers can operate and succeed in a given area, all consumers benefit from increased competition. However, insurers should not be expected to subject existing policyholders to greater risks by adding new policies when rates are insufficient rates to cover losses. Doing so puts all policyholders at risk, by jeopardizing company solvency.

With increasing risk profiles, especially in certain markets, it is critically important for accurate price signals to be sent to consumers. Further, rates must match risk to avoid larger increases that can stress consumers' budgets. Each year, rates must be adjusted to account for all these factors and risk must be acknowledged by all market participants.



NATIONAL
MULTIFAMILY
HOUSING
COUNCIL



NATIONAL APARTMENT ASSOCIATION

September 6, 2023

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Tim Scott
Ranking Member
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Scott:

On behalf of the nearly 100,000 combined members of the National Multifamily Housing Council (NMHC)¹ and the National Apartment Association (NAA)², we are writing in advance of the hearing titled "Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers" to share the views of the multifamily housing industry. In recent times, volatility in the insurance market has led to soaring costs, reduced coverage, and unmitigated risks, all of which poses a significant financial and operational challenge to apartment firms of all sizes and types and ultimately worsens housing affordability.

Like the broader real estate community NMHC and NAA understand that the future stability of the property insurance market and its ability to withstand the continued occurrence of catastrophic events must remain a top concern of our sector. Owners, operators and developers of rental housing have been hit hard by dramatically rising insurance costs in recent years. Coverage limitations, deductible increases and the absence of an affordable or viable private insurance market altogether have increased the financial risk borne by housing providers and strained property operations which has impacted rents charged to residents. These challenges have coincided with an increasingly difficult multifamily risk landscape overall. The ability of multifamily firms to attract investments required to meet the nation's housing needs and help address its housing affordability crisis is put at risk by out-of-control insurance costs.

This lack of affordability of insurance options for property owners, has in many cases limited the ability of property owners to make needed investments in their properties. These increased insurance costs are also causing developers to delay or cancel projects which will, undoubtedly have a long-term effect on housing supply and affordability for years to come.

A [May 2021 survey and report](#) sponsored by NMHC, NAA, the National Leased Housing Association (NLHA) and other affordable housing organizations found that these conditions have led to negative impacts on both housing providers and renters, with most housing

¹ Based in Washington, D.C., NMHC is a national nonprofit association that represents the leadership of the apartment industry. Our members engage in all aspects of the apartment industry, including ownership, development, management and finance, who help create thriving communities by providing apartment homes for 40 million Americans, contributing \$3.4 trillion annually to the economy. NMHC advocates on behalf of rental housing, conducts apartment-related research, encourages the exchange of strategic business information and promotes the desirability of apartment living.

² The NAA serves as the leading voice and preeminent resource through advocacy, education, and collaboration on behalf of the rental housing industry. As a federation of 141 state and local affiliates, NAA encompasses over 93,000 members representing more than 11 million apartment homes globally. NAA believes that rental housing is a valuable partner in every community that emphasizes integrity, accountability, collaboration, community responsibility, inclusivity and innovation.

providers indicating that they would take action to mitigate cost increases due to higher insurance premiums by increasing insurance deductibles, decreasing operating expenses, and being forced to increase rent. These steps are being taken as a last resort when the multifamily housing industry is facing soaring operational costs across the board and at a time of great housing affordability challenges across the nation.

In June 2023, NMHC released the [State of Multifamily Risk Survey and Report](#), which found that the situation has only worsened over the last few years, leading policyholders to raise deductibles, and insurers to limit coverage amounts and include new policy limitations in the past three years;

- 61 percent of the respondents had to increase their deductibles to maintain affordability.
- 57 percent of the respondents indicated that their insurance carriers included new policy limitations to reduce their exposure.
- 34 percent reported that their insurance carriers limited or reduced coverage amounts.

For property insurance, 2023 NMHC data shows a nationwide average 26% increase in premiums yet in some markets or at some properties—like many affordable housing communities—we have seen triple-digit increases. These challenges are not limited to just property—we have seen spiking insurance costs across all lines of coverage, including wildfire, earthquake, cyber and liability.

Insurance Costs and Impact on Housing Affordability and Supply

Today, in more and more communities, hard-working Americans are unable to rent or buy homes due to increased housing costs. These rising costs are driven by a lack of supply created by barriers to development that increasingly make it extremely challenging, if not impossible, to build housing at almost any price point—particularly a price affordable to low- and middle-class families. The total share of cost-burdened households (those paying more than 30 percent of their income on housing) increased steadily from 28.0 percent in 1985 to 36.9 percent in 2021, while other households have been priced out of communities altogether in their search for affordable housing¹.

And while policymakers, at all levels of government, must do more to remove barriers to housing production, they must also understand how operational costs—outside of the control of property owners—is exacerbating the situation and directly impacting the cost of housing. Rental housing firms continue to face a challenging market caused by lingering effects of the pandemic, rising interest rates, increased costs of development, such as construction and labor costs, significant increases in insurance, state and local property taxes and a lack of certainty about broader economic conditions over the coming months have made the current operating environment extremely challenging.

Again, with little-to-no budgetary flexibility, housing providers are often forced to rethink or defer necessary maintenance, cut amenities or other resident services or take other unwanted measures to be able to maintain required insurance coverages, which are dictated by agency or lender requirements.

Today's current challenges will have a lasting impact on our ability to address housing affordability and meet rental housing demand in the long-term. Year-after-year of increasing insurance costs, coupled with other economic uncertainty, is impacting property valuations, disrupting transactions, and putting substantial pressure on the operating budgets of rental housing properties, often resulting in growing areas of uninsured risk. While not new, the challenges in the insurance marketplace have only made the situation more dire at a time when NMHC and NAA members are reporting that current economic and regulatory challenges are causing them to cut back significantly on development activities, in some cases, by as much as 50 percent. This slowdown has long-term implications. NMHC's July 2023 Quarterly Survey of Apartment Market Conditions also indicates the following troubling statistics:

- Over a third of respondents (35%) reported lower sales volume from three months prior.
- 57% of respondents reported equity financing to be less available than three months ago, marking the sixth straight quarter of less availability; and
- 67% said it was a worse time for mortgage borrowing compared to three months earlier, the eighth consecutive quarter in which debt financing became less available.

Potential Federal Policy Solutions

It is increasingly clear that given the lack of private sector capacity and ability to mitigate these risks and the resulting market failure, policymakers must look for ways to incentivize a more robust insurance and reinsurance market for multifamily housing so that affordable, attainable and quality lines of coverage are available to meet property needs and mitigate risk.

In the near-term, there are several administrative or regulatory actions that are being discussed among stakeholders and policymakers that could provide some relief include, but are not limited to, encouraging HUD to update its Operating Cost Adjustment Factor (OCAF) moving forward to account for property level insurance increases; require HUD, the Federal Housing Finance Agency (FHFA), USDA (United States Department of Agriculture) Rural Housing and other federal stakeholders to review and update lender insurance requirements; providing Internal Revenue Service (IRS) guidance that allows developers to capitalize a pre-defined amount of insurance premiums in eligible basis under the LIHTC and allow for expenses related to insurance procurement and risk mitigation activities that improve property resilience to be capitalized and included in the eligible basis. These administrative actions have the potential to provide limited, but important, short-term relief to housing providers operating subsidized affordable housing.

In the absence of accessible and affordable private sector insurance solutions, today's lack of capacity in the insurance and reinsurance markets is reaching crisis levels and has begun to raise serious alarm across the entire financial system with trillions of dollars in uncovered or uncovered risk across real estate. NMHC, NAA and other stakeholders in the real estate industry are early in its coalition work to identify possible, long-term solutions. In the past, policymakers have stepped in and created backstops such as the National Flood Insurance Program (NFIP) and the Terrorism Risk Insurance Act (TRIA), when the market disruption or dysfunction has reached similar levels.

This hearing today, is an important step forward in determining what is needed to ensure that federal programs and funding are designed to help mitigate the risks rental housing providers are facing. It is just as important for Congress examine and support pre-disaster mitigation and community resiliency efforts that will improve the insurability of our nation's rental housing stock and protect the availability and affordability of basic flood insurance coverage.

NMHC and NAA have identified several other areas that should be considered and could help lessen the financial and physical risk faced by rental housing providers and would benefit from Congressional action:

National Flood Insurance Program (NFIP)

Because of the challenges in the broader property insurance market, it is absolutely critical that the NFIP is reauthorized and reformed to ensure its long-term viability. Ensuring that the NFIP is able to continue to ensure that affordable flood insurance is available at all times, in all market conditions for every at-risk rental property is essential. These include more than just high-rise multifamily properties in urban centers and extend across every state to include rental homes of all sizes and types. The reauthorization and reform of the NFIP remains a top priority for our membership to not only protect their property investments but to help manage the increasing costs of providing housing that is affordable.

Resiliency/Mitigation

At the same time, it is essential that Congress do more to prioritize community resiliency and ensure flood prevention and mitigation measures are widely available and affordable to property owners of all types. Resiliency, mitigation and a stable and affordable insurance are all important parts of a comprehensive strategy that is needed to protect our communities and our residents.

It is critical that federal policymakers advance mitigation and resilience strategies that are realistic and not cost prohibitive, protect the long-term viability of rental housing communities regardless of their financing structure, and help reduce the financial and physical risk faced by housing providers and renters by increasingly destructive natural disasters. For example, the Federal Emergency Management Agency (FEMA) administers several mitigation grant programs to reduce damage, claims, and risk in the event of a natural disaster such as flooding. Yet, while apartment communities are not explicitly excluded from eligibility for existing FEMA funds, the grant programs are overwhelmingly focused on primary, single-family homes.

Even further, FEMA has only recently focused attention on the importance of mitigation efforts for properties that cannot benefit from traditional mitigation techniques like building elevation. Unfortunately, many of the recommendations for alternative methods of mitigation that FEMA has made to property owners are impractical for apartment communities and the majority would not afford any flood insurance premium reduction despite the large cost of implementation. Congress should direct FEMA to undertake further actuarial work and issue alternative mitigation guidance specific to rental property owners that is realistic, cost effective and would result in premium reductions under the NFIP and private sector insurance solutions. Additionally, expressly authorizing apartment firms to be eligible for existing mitigation programs or establishing a multifamily and commercial property specific mitigation grant program to address the unique challenges faced by these property owners would be key.

To stabilize the insurance market challenges we have outlined and prevent growing exposure to taxpayers in the wake of unrelenting natural disasters, it will require partnership between policymakers and private sector stakeholders from real estate and insurance to advance solutions that improve climate resilience and sustainability and allow for properly functioning insurance and reinsurance markets to protect our nation's rental housing stock and the broader economy. NMHC and NAA stands ready to assist policymakers in this important work. We thank you for the opportunity to present the views of the multifamily industry as you explore these critical issues.

Sincerely,



Sharon Wilson Géo
President
National Multifamily Housing Council



Robert Pinnegar
President & CEO
National Apartment Association

United States Senate

WASHINGTON, DC 20510

September 6, 2023

Senate Committee on Banking, Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Brown and Ranking Member Scott,

Thank you for holding this hearing and providing an opportunity to share the challenging insurance landscape following natural disasters and its impact on consumers. As you may know, Vermont experienced severe flash floods beginning on July 7 that continued through August 8. The immediate impacts were nothing short of catastrophic, requiring over 200 water rescues, nearly 90 road closures along major routes, and damage to over 200 miles of rail in the state-owned rail system.

Unfortunately, the long-term impacts of the disaster are proving to be just as catastrophic, with thousands of homes and hundreds of businesses reporting damage from the floods. Vermont families and businesses are relying on their insurance companies to act expeditiously and treat them fairly in assessing what damage can be covered under their individual policies. This is particularly important in a time of disaster, as many Vermonters will qualify for federal funding only after receiving coverage determinations from their insurers. Furthermore, existing and readily available federal disaster programs typically don't make disaster survivors whole again.

With that in mind, the Vermont Congressional delegation sent a letter to 95 insurance companies holding federally-backed and private insurance policies across Vermont – including the top flood, homeowner, and auto insurance companies – calling on them to act quickly and fairly when assessing what damage from the recent floods can be covered under their individual policies. Specifically, we requested that companies take the following steps to help Vermonters recover from this horrific disaster:

1. **Premiums:** Temporarily suspend premium payments and vacancy provisions for those impacted by the disaster and work with policyholders to come up with a workable repayment plan.
2. **Expedient Processing:** Quickly and accurately process all claims made and provide advance payments whenever possible to ensure the volume of claims does not delay payment and extend hardship. This will be critical in not only paying Vermonters for their covered claims but will enable them to apply for federal disaster relief assistance, which requires documentation of insurance claim denials. Failure to promptly process claims could prevent Vermonters from receiving critical federal disaster relief assistance.
3. **Underwriting:** As [previously mentioned](#) by Vermont's Department of Financial Regulation (DFR), insurers should not re-rate, cancel, non-renew, or refuse to provide insurance coverage solely due to an individual's status as a victim or evacuee of this disaster. Likewise, insurers should not change the policyholder's rating classification or increase rates because they are a victim of recent flooding.
4. **Flexibility:** Use all existing authorities to execute your duty to properly investigate all claims to determine if coverage exists. Given the severity of this situation and the fact that federal funding will focus on only necessary expenses, insurers must be comprehensive, flexible, and compassionate when

settling claims, in addition to being prompt. Furthermore, insurers should work with claimants impacted by the flooding that may be unable to meet reporting timelines as specified in their policies.

The responses from insurance companies generally indicated that the companies are complying with guidance issued by the DFR. However, we have heard from constituents about some issues contacting insurers. Our offices have referred dozens of constituents to DFR since mid-July to resolve issues with insurers, including one constituent whose home damage was assessed as a total loss, yet her insurance determined she would only receive \$3,600 with 72 hours to accept the direct deposit. This was despite having multiple policies on her home insurance plan that should have covered more of the damage. Another constituent received an obviously incorrect car assessment from a claims adjuster, who claimed that the constituent's car did not get wet despite photo evidence of the car underwater at a local dealership. Two constituents with home and auto insurance from one specific company have indicated they are not receiving coverage because they lack flood insurance.

Further, existing flood insurance policies have their own limitations as well. One affordable housing organization rightfully evacuated tenants from damaged housing units. Although the building had flood insurance, the insurance did not cover lost rental income that enables affordable housing providers to build and maintain housing across the state. In another example, the repair estimate for two affordable housing properties damaged by the flood exceeded insurance coverage by \$450,000.

We are still at the beginning stages of the recovery process, and it is certain that these concerning examples of insurance companies mishandling disaster claims and the gaps in coverage will only multiply as we are further in the process. We will keep your committee updated as we move forward, and we appreciate your attention to the issue at hand, particularly given the growing need for a functioning and reliable insurance industry due to global climate change.

Sincerely,



BERNARD SANDERS
United States Senator



PETER WELCH
United States Senator

**Testimony of the
American Property Casualty Insurance Association (APCIA)
Reinsurance Association of America (RAA)**

Senate Committee on Banking, Housing and Urban Affairs

**Perspectives on Challenges in the Property Insurance
Market and the Impact on Consumers**

Chairman Brown, Ranking Member Scott, and members of the Committee, the American Property Casualty Insurance Association (APCIA) and the Reinsurance Association of America (RAA) appreciate the opportunity to provide this overview of “The Challenges in the Property Insurance Market and the Impact on Consumers”. APCIA is the primary trade association for home, auto, and business insurers. For 150 years, we have promoted the viability of private competition for the benefit of consumers and insurers. APCIA members represent all sizes, structures, and regions – protecting families, communities, and businesses in the U.S. and across the globe. The RAA is the leading trade association of property and casualty reinsurers doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross border basis. The RAA represents its members before state, federal and international bodies.

The last decade of global natural catastrophe events has been the costliest in recorded history. Average annual weather-related catastrophe losses increased from \$126 billion between 1990-1999 to \$219 billion between 2010-2020.¹ Global natural catastrophes reached \$313 billion in economic losses in 2022, while similar U.S. losses exceeded \$100 billion in each of the last three years – the costliest three-year period on record. Our written testimony provides an overview of the property insurance and reinsurance marketplace, the extreme losses in the property lines, the escalating natural catastrophe losses and root causes driving those losses, and the growing rate gap in property insurance. The testimony also includes potential short-term and long-term solutions that our organizations support. We appreciate the Committee's leadership and look forward to working with you on these issues.

¹ Global Federation of Insurance Associations (GFIA) report on “Global Protection Gaps and Recommendations for Bridging Them”, p. 12, March 2023.

OVERVIEW

The property casualty insurance industry is well capitalized and solvent but suffering deep and historic losses in the property lines of insurance. Prudent risk management by insurance companies requires holding sufficient capital to fund the volatility associated with insurance against natural catastrophes and other potential losses. Insurers and reinsurers are only able to attract additional investment capital if they are able to offer investors an adequate rate of return, which particularly for consumer-facing primary insurers has, in some places, been constrained by government rate suppression and delays, that has led to severe market disruptions and limits related to coverage availability.

Insurance pricing also is a mechanism for conveying the consequences of decisions about where and how we build and where people choose to live. Accurate pricing helps society recognize and understand the true environmental costs, such as the increasing risks from more frequent and severe weather events and overbuilding in regions exposed to higher risks of natural catastrophes. When policymakers restrict insurance rates and prevent insurers from setting rates commensurate with the expected losses, it masks the true costs, further exacerbating property losses and damages while creating availability issues for individual and business insurance consumers. It also forces policyholders residing in safer areas, and more broadly, all taxpayers to subsidize those living in riskier areas as they are more prone to extreme weather events.

While adequate rates are an essential condition for functioning insurance markets, APCIA and the RAA also share policymakers' concerns about the broadly increasing costs of natural disasters. While natural catastrophe losses globally have remained stable as a share of inflation-adjusted GDP over recent decades and the percentage of losses that are insured has increased, the protection gap for natural catastrophes (the difference between economic losses and insured losses) is an estimated \$139 billion and growing.² The root causes of the growing catastrophe losses are an accumulation of asset values in regions exposed to higher risks of natural catastrophes, economic inflation, increases in extreme weather (such as wildfires, hurricanes, drought, and convective storms), climate change driven factors such as storm surge, legal system abuse, and regulatory coverage mandates.

Insurers and reinsurers have historically been leaders in understanding, quantifying, and mitigating weather risk, including increasing climate change risk and exposures. Earlier this year, APCIA and RAA helped develop a report by the Global Federation of Insurance Associations (that represents nearly 89 percent of the world's insurance premiums) entitled: "Protection Gaps and recommendations for bridging them". Natural catastrophes were recognized as creating one of the four most significant protection gaps. The GFIA report underscores that while the average share of natural catastrophe losses that are covered by insurance has increased over time globally, this has not been sufficient to decrease the natural catastrophe protection gap in absolute numbers, which stands at roughly US\$139 billion per annum.³ The report emphasized the critical role of (re)insurance and the urgent need for government and the private sector to work together to address the rising global natural catastrophe losses.

² Ibid.

³ Ibid. (between 1990 and 2000, the global average share of insured losses was approximately 22%, compared with 33% between 2010 and 2020; in Europe and North America, roughly 60-70% of catastrophic losses are insured).

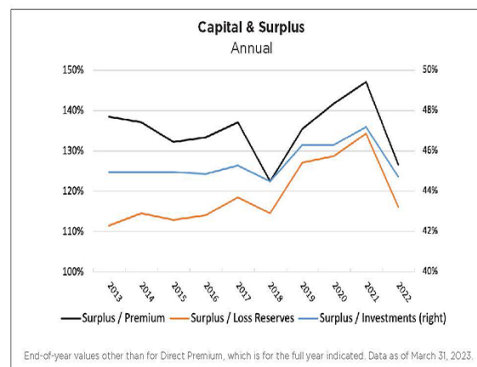
APCIA and the RAA have been supporting dozens of natural disaster mitigation and resiliency programs at the state, federal, and international level, and many of our individual (re)insurer members have been corporate leaders in addressing climate-risk concerns and developing solutions. Attached to our testimony are some of the specific programs supported by our organizations that we would recommend to members of the Committee to help address or mitigate increasing climate-related natural catastrophes.

PROPERTY INSURANCE MARKET FINANCIAL OVERVIEW

The role of losses in (re)insurers' financial results, as well as in the affordability and availability of coverage cannot be overstated. Insurance is largely a passthrough of costs and losses being sustained in the larger society. For example, in 2022, 90 percent of auto insurance premium dollars were paid out in claims and related expenses to deliver those benefits.

SOLVENCY: The U.S. property and casualty surplus is currently slightly over a trillion dollars.⁴ Insurers' require additional surplus to meet the ever-increasing risks and exposures, ranging from cyber threats in just about all insurance products to the devastating impact of extreme weather events and climate change. However, last year, the aggregate net worth of the U.S. property casualty insurance industry – the financial cushion to absorb unexpectedly high claims costs, investment losses, and catastrophe and weather events – fell by \$73.1 billion in 2022.⁵ The 6.9 percent drop from year-end 2021 was the largest percentage decline since the "Great Recession" year of 2008. The deterioration in industry financial strength was driven by underwriting losses (defined as claims paid and incurred versus premium revenue) of \$25.6 billion (the largest loss since 2011) and record unrealized investment losses of \$97.2 billion. Relative to the aggregate value of goods and services produced in the economy, insurance industry capital and surplus has shrunk. In the last three quarters, growth in capital and surplus failed to keep pace with growth in GDP – and the gap appears to be widening.

While overall policyholder surplus for the industry ticked up in the first half of 2023, it continued to contract for half of the top 10 and 20 property casualty underwriters, even before Hurricane Idalia and the Maui wildfires.⁶

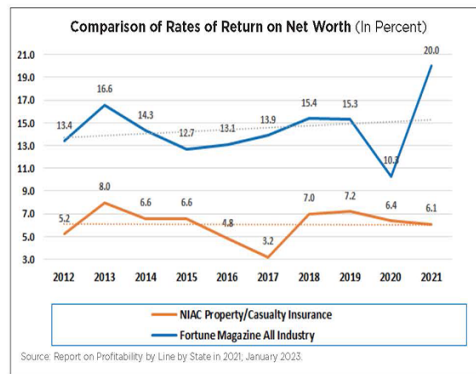


⁴ S&P Global Market Intelligence based on NAIC June 2023 data for property casualty insurers (\$1.039 trillion).

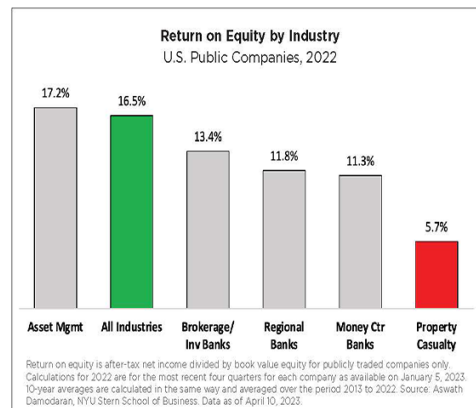
⁵ APCIA Analysis of Financial Operating Results and Trends Impacting 2023 (Spring 2023).

⁶ AM Best Co "Best's Rankings", September 1, 2023.

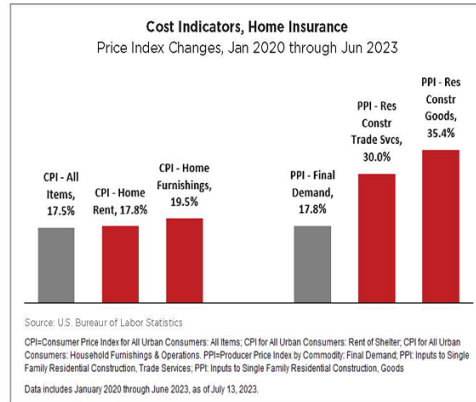
PROFITABILITY: The profitability of the property casualty insurance industry has been extremely low (as shown in the graph below comparing return on net worth calculated by the National Association of Insurance Commissioners (NAIC) against the rates for all industry) and has worsened recently.



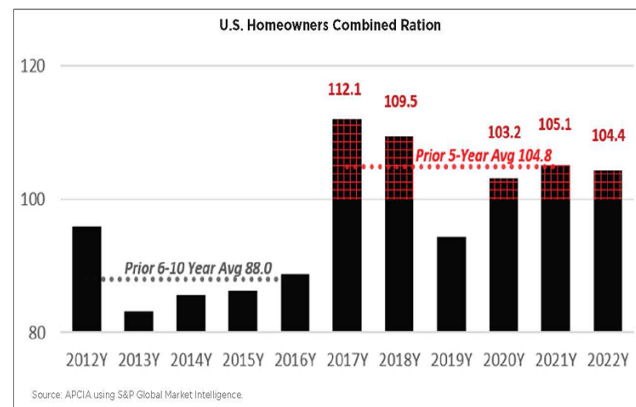
The deficient returns on insurance investments further worsened last year, with property casualty insurers almost two-thirds less profitable as measured by return on equity.



Personal lines insurance has become particularly unprofitable in recent years. Homeowners insurance input costs (such as the cost of home goods and services) have increased much faster than the underlying rate of consumer inflation.

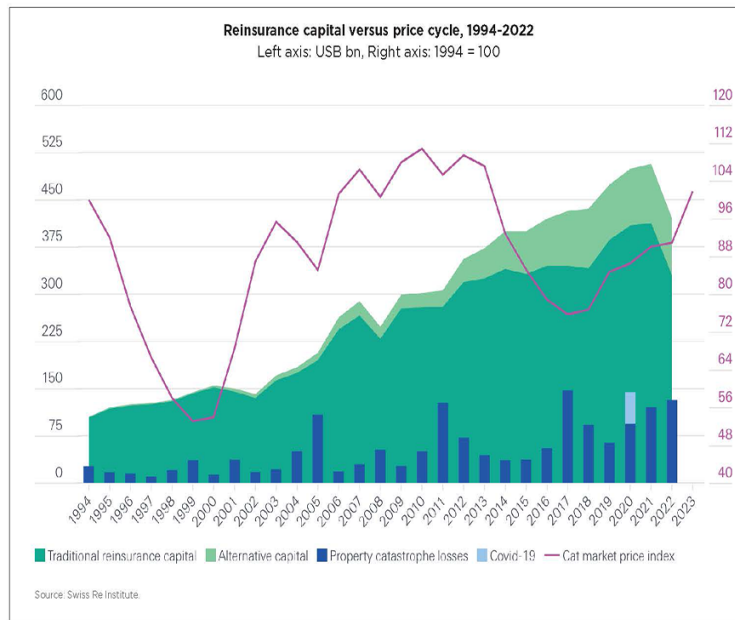


According to data from S&P Global Market Intelligence, the U.S. combined ratio (defined as claims paid and incurred plus administrative expenses) for the homeowners line has exceeded 100 for five out of the last six years, meaning insurers have spent more in claims payments and expenses than collected in premiums.



REINSURANCE/ALTERNATIVE CAPITAL MARKETS

The global reinsurance markets are also highly solvent but facing profitability challenges. Global reinsurers have had to manage the cover they provide against catastrophic property insurance risks after several years of large catastrophe losses, particularly as prices have failed to keep pace with weather-related losses. However, according to Fitch Ratings, reinsurers are still offering ample cover for severe catastrophes.⁷ Global reinsurance capital in 2022 contracted by \$87 billion – 12 percent of the total. By the first quarter of 2023, global reinsurer capital increased by five percent (\$30 billion) to \$605 billion.⁸ By the end of the first half of this year, reinsurance capital grew 13% to \$709 billion (close to the \$725 billion peak in 2021). Non-life alternative capital (defined as financial products offered outside the traditional insurance sector and often financing natural catastrophe risk) increased by 4% in the first half to \$99 billion, driven by an increase in catastrophe bonds.⁹



⁷ <https://www.fitchratings.com/research/insurance/global-reinsurers-pull-back-from-natural-catastrophe-cover-24-08-2023>

⁸ <https://www.aon.com/getmedia/5bd28315-9c37-461c-b665-69a910bf0a6a/20230628-midyear-rmd.pdf>

⁹ <https://www.aig.com/gallagher/news-and-insights/2023/september/1h-2023-reinsurance-market-report/>

According to Swiss Re:¹⁰

With more risk and more exposure to leveraged capital from outside of their own balance sheets, reinsurers retained earnings have been insufficient to bear their cost of capital, let alone build stronger balance sheets to cater for an increasing risk landscape.

Since 2017, the re/insurance industry has paid out USD 650 billion (in 2022 prices) for weather-related natural catastrophes claims. However, premium income has not kept pace with events or exposure growth – whether measured by GDP or other more targeted measures – the result being steadily declining profits. Natural catastrophe losses affect industry capacity directly; while making societies financially more resilient, the payments to policyholders reduce profitability and capital supply. They also have indirect impact as re/insurers and investors update risk assessments. Perceptions about whether risks are priced adequately is key in determining the supply of capital and capacity available for underwriting. The historically elevated catastrophe and claims activity since 2017 has created doubts on the part of re/insurers and investors, which slowed the capital supply response.

Global reinsurance capital vs exposure growth: a mismatch that looks set to stay

Demand for coverage for natural disasters had risen on evidence of increased catastrophe activity, and because of higher insurable values of buildings and other fixed assets. At the same time, catastrophe claims pay outs have reduced the supply of re/insurance capital. Rising interest rates and lower financial asset values have also contributed to supply constraints. Risk appetite has further decreased due to poor property re/insurance underwriting results in recent years, and widely held perceptions that risk assessments are underestimating actual loss experience. This is leading to hesitation on the part of capital providers to commit new funds to re/insurance risks and replenish the industry capacity.

Global reinsurance capital vs exposure growth, 2018 = 100



Source: AM Best, Swiss Re Institute

¹⁰ <https://www.swissre.com/risk-knowledge/mitigating-climate-risk/state-of-reinsurance-property-cat-market.html>

THE CHALLENGE OF INCREASING NATURAL CATASTROPHE LOSSES

Weather-related disasters are becoming increasingly common across the globe, causing significant economic damage and societal losses. Aon, one of the largest global insurance brokers, reported global natural catastrophes reached \$313 billion in economic losses in 2022, while global insured losses reached \$132 billion—well above the short-, medium- and long-term averages, and surpassing the \$100 billion threshold for the third time in a row.¹¹ Global economic losses from natural disasters in the first half of 2023 are estimated to be \$194 billion, notably above the 21st-century average of \$128 billion and the 5th highest on record.¹² Global insured catastrophic losses in the first half of 2023 are currently estimated at \$53 billion, which is similarly 47 percent above the 20-year average.¹³ In the U.S., economic losses from natural catastrophes reached \$165 billion in 2022, 65 percent above the average since 2000 (adjusted to 2022 dollars). Insured losses reached \$99 billion, once again recording the highest proportion of global insured losses (75 percent), and the third consecutive year that the U.S. share topped 70 percent.¹⁴ The combined insured losses of 2020 through 2022 in the U.S. reached \$287 billion (adjusted to 2022 dollars) for natural catastrophes (APCIA, via Aon), making this the costliest consecutive three-year period on record for U.S. insurers. So far in 2023, U.S. insured losses are continuing their above average trend. In the first half of the year, ten events caused losses of at least \$1 billion compared to an average of six events over the last ten years.¹⁵

The average number of billion-dollar events in the U.S. per year from 1980 to 2021 was 7.7, while the average was 17.8 events per year from 2017 to 2021.¹⁶ In 2022, there were 18 weather/climate disaster events with losses exceeding \$1 billion each to affect the U.S., including 11 severe storm events, three tropical cyclones, and one wildfire event, drought event, flooding event, and winter storm event.¹⁷ The following map from the National Oceanic and Atmospheric Administration (NOAA) captures weather and climate disasters over a billion dollars in the U.S. in 2022, reflecting the challenges facing the property insurance market.

¹¹ Aon 2023 Weather, Climate and Catastrophe Insight, <https://www.aon.com/getmedia/f34ec131-3175-406c-9e0b-25cea768c5c4/20230125-weather-climate-catastrophe-insight.pdf>.

¹² <https://assets.aon.com/f/media/files/aon/capabilities/reinsurance/global-catastrophe-recap-1h-2023.pdf>.

¹³ <https://www.fticonsulting.com/research/insurance/global-reinsurers-pull-back-from-natural-catastrophe-cover-24-08-2023>.

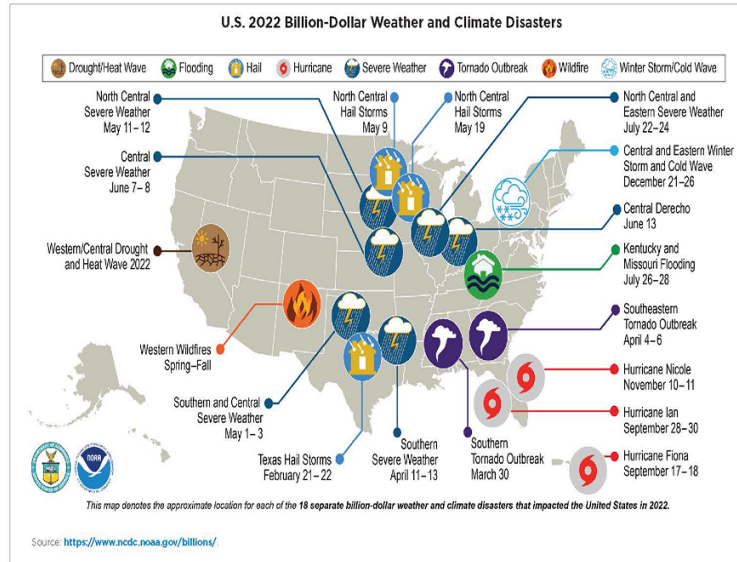
¹⁴ Aon 2023 Weather, Climate and Catastrophe Insight, <https://www.aon.com/weather-climate-catastrophe/index.aspx>.

¹⁵ <https://assets.aon.com/f/media/files/aon/capabilities/reinsurance/global-catastrophe-recap-1h-2023.pdf>.

¹⁶ NOAA National Centers for Environmental Information (NCEI), U.S. Billion-Dollar Weather and Climate Disasters (2022).

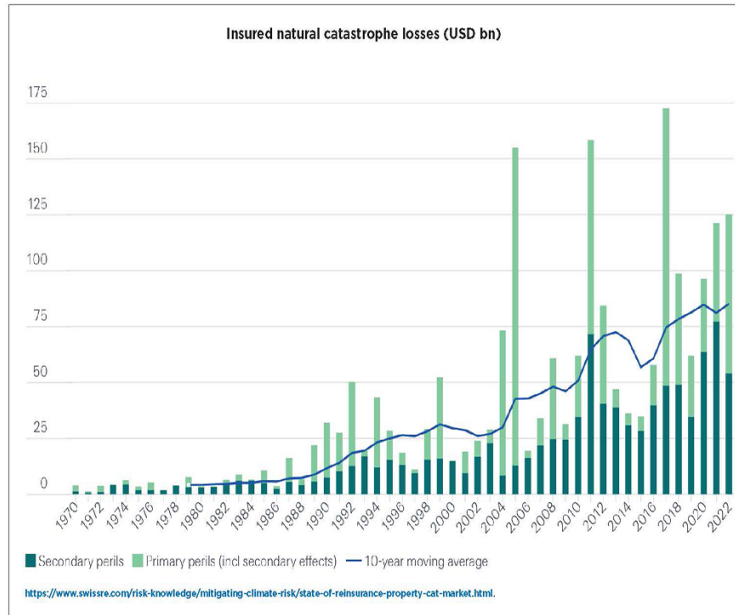
¹⁷ <https://www.ncsl.noaa.gov/access/billions/>.

¹⁷ <https://www.ncsl.noaa.gov/news/national-climate-202212>.



Insurers continue to be concerned with the increasing volume of so-called "secondary peril" events, which are generally smaller to mid-sized events or secondary effects that follow a primary peril. These include severe storms, wildfires, flooding, drought, and snow and ice storms. In 2022, severe storm events and the ongoing U.S. drought resulted in insured losses of \$29 billion and \$8 billion, respectively.¹⁸ Such secondary peril events are becoming more impactful and generating an increasingly larger volume of insured losses, affecting the bottom lines of personal and commercial lines property underwriters. For example, data from Aon shows since 2000 secondary perils have resulted in \$1.11 trillion in insured losses globally (55.9 percent), while Moody's noted secondary perils' share of total insured losses globally has further climbed to over 60 percent on average over the last three years (2020-2022). The figure below shows the increasing losses from natural catastrophes and proportion of losses from secondary perils.

¹⁸ Aon 2023 Weather, Climate and Catastrophe Insight, <https://www.aon.com/weather-climate-catastrophe/index.aspx>



INCREASING NATURAL CATASTROPHE LOSSES - CAUSES

In addition to climate change, increased natural catastrophe losses are being driven by demographic shifts leading to increased asset values in higher-climate-hazard areas, economic growth, inflation, legal system abuse, claims fraud, government interference in the form of both new laws that expand policy coverage and overall exposure for insurers, and regulatory constraints that simultaneously limit the ability of insurers to manage growing exposure and costs. Each of these problems increases system costs, which in turn has led directly to higher premiums for policyholders.

Market instability also increases uncertainty, forcing individual insurers to restrict coverage, cancel or non-renew policies and exit markets. These factors are explored in-depth in APCA and RAA's paper "It's Not Just the Weather: The man-made crises roiling property insurance markets."¹⁹

Much of the increase in natural disaster costs can be attributed to rapid population growth in catastrophe-prone areas such as the wildland urban interface (WUI), where wildfire risk is high, and the Atlantic and Gulf of Mexico regions, which face the greatest risk from hurricanes. High value houses tend to be built in these areas susceptible to weather and climate-related events, further driving up the accumulation of assets in disaster-prone areas.

¹⁹ <https://www.insurancejournal.com/app/uploads/2022/08/APCA-Its-Not-Just-the-Weather-1.pdf>

By some estimates, the number of Americans directly exposed to wildfire doubled over the past two decades²⁰ and around one in six Americans currently live in areas with significant wildfire risk.²¹ The hurricane-exposed states of Florida, South Carolina, Georgia, and Delaware all experienced double-digit population growth between 2010 – 2020.²² The Houston area added more than 1.3 million homes between 1980 and 2020, where Hurricane Harvey caused an estimated \$149 billion in damages in 2017. Ongoing development in coastal areas has also damaged natural areas such as wetlands that act as buffers by absorbing the physical effects of wind, waves, and storm surge.²⁴

According to Swiss Re:²⁵

Rather than the physical destructive force of natural catastrophes themselves, the main driver of resulting high losses are economic growth, accumulation of asset values in exposed areas, urbanisation and rising populations, often in regions susceptible to natural perils. We expect that these and the evolution of a range of present-day risk factors like climate change effects and, of late, inflation, will continue to drive losses higher. Economic inflation has surged over the last two years, averaging 7% in the advanced markets and 9% in the emerging economies in 2022. Initially sparked by pandemic-induced supply chain disruptions and large monetary and fiscal stimuli, soaring food and energy prices due to the war in Ukraine have compounded inflation. In the US, for example, the aggregate replacement cost of buildings in 2022 had risen by an estimated 40% since the start of 2020.

According to a 2022 study on Global Modeled Catastrophe Losses by the data analytics firm Verisk:²⁶

Over the past 5 years, actual insured losses from natural catastrophes have averaged USD 100 billion, compared with an average of less than USD 50 billion over the previous 5-year period. Although many public statements have been made attributing this increase primarily to climate change, our analysis indicates that a number of factors contribute to this doubling of the most recent 5-year average loss over the previous 5-year period. These factors are (in order of importance):

1. A rise in exposure values and replacement costs, represented both by continued construction in high-hazard areas and by high levels of inflation that are driving up repair and rebuild costs
2. The natural variability that comes from selecting any five-year sample of natural catastrophe experience
3. The effects of climate change on different atmospheric perils
4. The impacts of man-made loss drivers, such as social inflation and legal and regulatory factors

CLIMATE IMPACTS

The planet's continued warming trend is affecting the frequency and severity of natural disasters. Numerous studies have shown hurricanes are increasing in strength, drought conditions are becoming more widespread and persistent, wildfires are intensifying, and sea levels are rising, affecting storm surge and coastal properties. NOAA predicts that by 2050 sea levels will rise by an average of 10 to 12 inches and up to \$106 billion of coastal property in the U.S. will likely be underwater.²⁷

Catastrophe modeling company Karen Clark & Company (KCC) developed climate modeling catalogs for the perils most impacted by climate change – hurricanes, floods, and wildfires—with projections out to 2050

²⁰ <https://www.cbsnews.com/news/risk-of-wildfires-near-homes-doubled-why/>

²¹ <https://www.washingtonpost.com/climate-environment/interactive/2022/wildfire-risk-map-us/>

²² <https://www.iii.org/press-release/triple-i-population-growth-drives-hurricane-loss-trends-071422>

²³ <https://www.nytimes.com/2022/12/02/briefing/why-hurricanes-cost-more.html>

²⁴ See also, the GFIA report on "Global Protection Gaps and Recommendations for Bridging Them", March 2023 ("A driver contributing to the acceleration of the protection gap is the movement of populations and their valuable assets to high-risk areas.")

²⁵ Swiss Re Institute, "Natural catastrophes and inflation in 2022: a perfect storm", p.2 (2023).

²⁶ https://www.aif-worldwide.com/sitesassets/Publications/White-Papers/documents/2022_Global_Modeled_Catastrophe_Losses.pdf, p.4 (2022)

²⁷ <https://coast.noaa.gov/states/facts/climate-change.html>

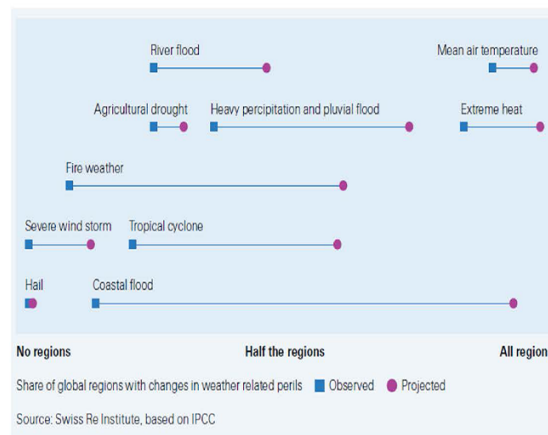
for different emissions scenarios provided by the Intergovernmental Panel on Climate Change (IPCC).²⁸ The findings suggest that wildfire losses in the U.S. will increase more than 100 percent on average, although the impacts will vary by region. Hotter and drier conditions across the western U.S. are already resulting in fires igniting more easily and spreading more rapidly due to extremely dry vegetation. Fire season, a period that has historically been viewed in the western U.S. as May through October, is now widely viewed to be year-round.

KCC's research also indicates that climate change is increasing the severity but not the frequency of hurricanes, while coastal flooding will be exacerbated by sea level rise. Scientists expect increasing wind speeds to increase the proportion of storms that intensify into Category 4 or Category 5 storms. As inland flood frequency and severity are projected to rise from tropical cyclones and heavy precipitation, this will pose a challenge for companies that insure flood, and residents who live in low-lying areas.

This is consistent with climate models that indicate rapid intensification of hurricanes will increase as average temperatures rise. NOAA defines rapid intensification as a gain of 35 mph or more in wind speed over 24 hours, as was most recently seen with Hurricane Idalia, which rapidly grew to a category 4 storm, briefly, just before making landfall due to the very warm temperatures in the Gulf of Mexico.

Gallagher Re has provided a similar analysis of the impact of climate change, suggesting that most global hazard event data sets do not show any obvious upward trends beyond anomalous years that may be more influenced by the phase of El Niño Southern Oscillation (ENSO). Where climate change is currently most evident is in the behavior or intensity of individual events, including a higher percentage of tropical cyclones reaching Category 3, 4 or 5, heavier precipitation (rain/snow) per event, more intense and prolonged droughts, larger, faster-moving wildfires, and greater extreme temperature events.²⁹

The figure below from Swiss Re shows the extent of observed and projected changes due to climate change in weather related perils. The graphic illustrates how water-related perils including coastal flooding are expected to be greatly impacted while hail and severe windstorms are expected to be less affected.



²⁸ Climate models are very large data models that represent the climate system and help us understand the evolution of the system over extended time periods. However, they primarily capture average temperature changes, and not cost-driving extreme weather events. They also typically cover wide geographies, making their use for specific insight into local impacts and planning limited. Catastrophe models are used to predict the frequency and severity of extreme weather (which drives economic and human costs), including hurricanes, floods, wildfires. They use historical statistical distributions of extreme events and are extremely useful in predicting changes specific to a location over a short-term period (such as 1-5 years).

²⁹ Gallagher Re Natural Catastrophe Report of 2022.
<https://www.aig.com/gallagherre/-/media/files/gallagher/gallagherre-gallagher-re-nat-cat-review-2022.pdf>

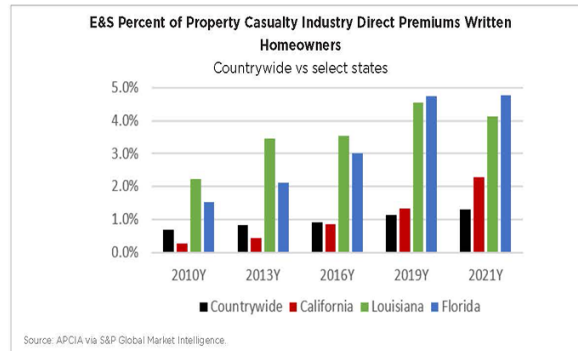
CONSEQUENCE OF RATE SUPPRESSION

A critical element of properly functioning insurance markets is maintaining the ability for insurers to charge an adequate rate for the risk covered. Risk-based pricing helps society recognize and understand the true environmental costs, which in turn supports healthy insurance markets that are responsive to climate risks. In the U.S., regulations that restrict insurers' ability to charge adequate rates or take other actions necessary to manage their overall exposure, particularly in high-risk markets, may lead to insufficient availability of insurance as insurers are forced to pursue other less volatile markets. There are a variety of risk mitigation steps insurers may choose to take based on their business models, capital needs, and risk appetite, among other factors. In some natural catastrophe-prone states, some insurers have chosen to mitigate their risk by restricting coverage due to record natural catastrophe losses, as well as other economic and societal pressures described earlier.

As insurers continue to face increasing pressure in catastrophe-prone states, and especially in the states with regulatory constraints that have made it more challenging for insurers to manage growing exposure and costs, the non-admitted market and residual market plans are increasingly serving as a relief valve.

In addition to admitted companies, some insurers choose to do business on a surplus lines (or "non-admitted") basis, which means they are generally not subject to rate or policy regulation by the state insurance regulator. Instead, U.S. domiciled surplus lines insurers are subject to regulatory requirements and are overseen by their domiciliary state; they then operate on a non-admitted basis in the other states in which the insurer offers policies. As a result, surplus lines carriers experience freedom of rate and form, which enables a surplus lines carrier to be innovative, creative, and responsive in developing a product that provides the level of coverage a consumer is seeking, while pricing the product in a financially responsible manner commensurate with the risk.

A.M. Best's Surplus Lines Market Report of 2022 noted there have been no surplus lines carrier impairments since 2004, suggesting surplus lines carriers continue to operate as a beneficial "safety valve for the admitted market". According to an analysis by S&P Global Market Intelligence, the U.S. excess and surplus (E&S) market constituted 8.7 percent of the country's total property and casualty industry during the first half of 2022, as direct written premiums surged to \$37.6 billion in the first six months of 2022. This represents an E&S premium growth of 27.6 percent versus the same prior-year period; a substantially larger rate of growth than the total U.S. P&C market (excluding E&S premiums), which grew by only 8.4 percent in the same period.³⁰



³⁰ S&P Global Market Intelligence (Nov 30, 2022), "E&S premiums accounting for larger share of US property and casualty market".

Residual market plans have similarly experienced significant growth. However, the expansion of policies in residual market plans weighs heavily on admitted insurance companies, as the concentration of high-risk properties could result in substantial losses in any given year. Should losses exceed a residual market plan's claims paying capacity, assessments might be made against admitted market insurers, forcing those insurers (and ultimately their policyholders) to pay the shortfall.

A growing number of residual market plans are now experiencing increasing financial stress. For example, a Louisiana Legislative Auditor report noted Louisiana Citizens, the state's residual market plan, may not have adequate reinsurance to pay claims if a major hurricane occurs.³¹

Similar challenges are emerging in residual market plans in other catastrophe-exposed states³², which is resulting in higher costs that may need to be passed on to policyholders within these plans. However, should a major disaster occur, the likelihood and magnitude of potential assessments continues to grow for admitted insurers and their policyholders, adding another layer of financial stress for the industry.

IMMEDIATE SOLUTIONS TO MARKET DISRUPTIONS

The insurance market disruptions seen in some disaster-prone states can be alleviated by regulators allowing rates to adequately and accurately reflect risk in a timely manner. Beyond helping assure a stable insurance market, accurate risk-based pricing is reflective of comparative exposure to risk. Actuarially sound rates help with better recognition of climate-related impacts and increasing climate-risk exposures, encourage adoption of mitigation and resiliency strategies, and helps maintain insurance availability and private competitive markets.

A recent GAO report on the National Flood Insurance Program (NFIP) highlights the importance of accurate risk-based pricing for maintaining properly functioning insurance markets. The GAO report found that a focus on affordability has kept NFIP premiums lower than they should be, resulting in the program borrowing billions of dollars from the U.S. Treasury to pay claims. A similar shortfall in the private insurance market would likely lead to insurer insolvencies and reduction in insurance capacity, hampering insurance markets and further affecting affordability.

Subsidies in government insurance programs have the potential to distort the appropriate pricing of risks in the marketplace by making the risk appear artificially low, thereby disincentivizing risk reduction, and encouraging development in higher risk areas. Government subsidies also have the potential to discourage private insurers from entering a market where they would otherwise be willing to take on at least some of the risk.

³¹ [https://app.lla.state.la.us/publicreports.nsf/0/9d5c25a709f476a3862588da005c6930/\\$file/000283c0.pdf](https://app.lla.state.la.us/publicreports.nsf/0/9d5c25a709f476a3862588da005c6930/$file/000283c0.pdf)

³² <https://www.eenews.net/articles/growing-storms-push-shrinking-la-insurers-into-failure/>

³³ <https://www.gao.gov/products/gao-23-105977>

LONGER-TERM SOLUTIONS

While allowing adequate and risk-based rates to cover losses is the key to remedying the market disruptions found in some states, longer-term solutions are essential to effectively address the underlying losses. The deteriorating loss situation is felt most directly by impacted communities and households, but its financial impacts are also borne by insurers and government. And we all share the urgent need to reduce those losses by working together to create a more sustainable and resilient society. Insurers support a multi-hazard approach for managing disasters and cooperation across levels of government and with relevant stakeholders, as risk mitigation must continue to be a shared priority.

The federal government spent an average of \$17.8 billion per year on disaster response in the 1980s and an average of \$121.4 billion per year from 2016 to 2020. State and local communities are also spending an increasing share of their budgets on disaster response, leaving less funding for other critical services. These spending trends on disaster response, while critical for communities to recover from natural disasters in the near-term, are unsustainable in the long run. To further address the rising costs and risks communities face, we must focus on the underlying issue of rising losses. With climate impacts showing no signs of easing, the insurance industry has placed a substantial focus on mitigating future loss costs to help keep families and communities safe and ensure the private insurance market remains well positioned to provide financial protection against these events.

In high-risk areas where public officials continue to allow development without reducing risk, the affordability of insurance will increasingly be an issue for consumers as overall loss costs continue to rise. Thus, to minimize loss of property and life, we believe communities need to become more resilient to help break this unsustainable cycle of building and rebuilding. To help make communities more resilient, insurers advocate for stronger and better enforced building codes, improved land use planning to reduce the accumulation of assets in high-risk areas, retrofitting existing homes and infrastructure, and fuel load reduction in areas at risk for wildfires.³⁵

Insurers believe communities must begin to adapt to growing climate impacts now, by adopting and enforcing stronger building codes in high-risk areas and land use planning that takes future conditions into account. The insurance industry has long been at the forefront of research to understand how to mitigate risk to reduce future losses, whether from hurricanes, earthquakes, or any other natural disasters. Through the Insurance Institute for Business & Home Safety (IBHS), the insurance industry has developed scientifically proven standards that enable homes and businesses to withstand increasingly severe storms, such as a Cat 5 hurricane. As more communities are hardened, this should result in a meaningful decrease in losses, which should translate to more affordable and available coverage for consumers.

The National Institute of Building Sciences (NIBS) has similarly shown that every \$1 spent on natural hazard mitigation in new code construction can save \$11 in disaster repair and recovery costs. In 2020, FEMA released a report titled, "Building Codes Save: A National Study". The study shows that building in compliance with modern building codes leads to major reductions in property losses from natural disasters and focused on three dominant natural hazards in the United States: floods, hurricane winds and earthquakes.

Based on decades of research, the insurer-supported IBHS developed their **FORTIFIED** program—a voluntary, research-based certification program that provides enhanced construction standards, typically exceeding current building standards—to provide additional protection from severe weather including hurricanes, hail, thunderstorms, and lower-level tornadoes. The FORTIFIED program offers three levels of resilience - Bronze, Silver, and Gold - with programs available for residential homes, commercial buildings, and multifamily housing.

In 2022, IBHS launched their **Wildfire Prepared Home™** program – a voluntary, research-based certification program designed to meaningfully reduce wildfire risk. Like IBHS' FORTIFIED program, the Wildfire Prepared program helps homeowners protect their homes through evidence-based home hardening and defensible space techniques. When taken together, these actions can help reduce vulnerabilities to heat, flames, and embers that often may lead to a total loss when a home ignites. Launched initially in California, the Wildfire Prepared Home program plans to expand to additional states, though homeowners in any state can still benefit from following the program requirements.

The Federal Government plays a key role in supporting community resilience. The U.S. Department of Homeland Security, FEMA's Hazard Mitigation Assistance (HMA) Grants program includes three key hazard mitigation funding programs that are intended to help break the cycle of disaster damage, reconstruction, and repeated damage. The Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance Program (FMA) are designed as pre-disaster mitigation programs, while the Hazard Mitigation Grant Program (HMGP) provides post-disaster funding assistance to help mitigate future disaster losses and includes the HMGP Post Fire program.

In addition to these and similar FEMA programs, NOAA's Community-Based Restoration Program and National Coastal Resilience Fund, a public-private partnership, offer funding for natural infrastructure in coastal communities. And the U.S. Department of Housing and Urban Development's (HUD's) Community Development Block Grant (CDBG), CDBG-Disaster Recovery, and CDBG-Mitigation programs offer support for vulnerable communities and disaster areas.

Traditional manmade "gray" infrastructure used to help protect communities from the threats of extreme weather is in a perilous state in the U.S. The American Society of Civil Engineers (ASCE) assigned a grade of C- to the physical condition and performance of U.S. infrastructure in 2021. The ASCE report estimates an investment gap of \$2.59 trillion over the next ten years. In addition to old age and poor physical condition of U.S. infrastructure, urban population growth is stressing some systems beyond their intended capacities. In addition, we need to think of infrastructure more broadly, to include enhancement of natural protections.

To help solve some of these infrastructure challenges, ASCE highlights the importance of using new approaches, materials, and technologies to increase our nation's resilience to natural disasters, including the combination of gray, green, and natural infrastructure. In addition to advocating for strong building codes and infrastructure to help harden homes and communities against the impacts of natural disasters, insurers support the use of natural and nature-based features as one part of a comprehensive risk mitigation strategy.

INSURERS' INNOVATION

Insurers support increased investment in data, tools, and advanced technologies to help understand and adapt to the rising physical threats that natural disasters pose, including uniform measurement standards and expanded collection, analysis, and shared access to climate data.

Insurers utilize complex models (see footnote 29) to quantify and price risk and must be allowed to use forward-looking models to project evolving risks in a changing climate. Catastrophe or cat models are updated using recent trends, are therefore fairly accurate in predicting risks over the period most property contracts are written (1 year). In some states, insurers are prohibited from using cat models to set rates, and instead, are required by law to use 20-year historical averages, which masks recent loss trends.

The industry also believes it is important to start forecasting loss trends over longer periods (10-30 years), to help insureds and communities with better mitigation and resilience planning. For example, as communities invest in infrastructure today, they should be building to withstand the extreme events that are likely to develop in the future. To facilitate these efforts, we need to integrate climate models (which have a long-term view, but do not provide location-specific, decision useful outputs) and catastrophe models (which

traditionally provide a clear view of short-term extreme weather risks). That integration will help identify with decision useful specificity exposure and vulnerability to extreme weather hazards, which in turn can be used to inform adaptation and mitigation factors.

While there are some integrated climate - cat models currently available, they vary significantly, and there is no means to verify the integrity of models, or the underlying data they use. This lack of validation creates a clear risk, as increasingly, various stakeholders, including federal entities, local and city governments, and smaller financial institutions (such as community banks) are factoring the outputs of these models into decisions related to infrastructure, planning, and economic investment. The industry is working on these efforts and believes government-private partnerships are needed to accelerate the development of integrated climate - cat models, especially as federal infrastructure funds are being deployed.

Insurers strongly support technology-enabled forecasting, data collection, analysis, and hazard warning and notification systems. Insurers support the use of smoke and water detectors, satellite and remote sensing technologies, and artificial intelligence / machine learning systems which improve risk management and the development of new product offerings. Insurers have long adapted to changing market conditions by developing innovative risk transfer mechanisms. These include products that support the energy transition, including policies for renewable energy projects and technologies, sustainable buildings and infrastructure, and fuel-efficient cars and electric vehicles.

Newer product offerings such as parametric insurance (also known as index-based insurance) provide risk transfer beyond traditional insurance. Parametric insurance provides coverage from a predefined event happening that meets certain parameters or an objective index value, regardless of the actual loss sustained. Parametric coverage may be used for primary perils such as an earthquake that exceeds a certain magnitude or hurricane with wind speeds that exceed a certain threshold. Parametric coverage can also be applied to secondary perils like wildfire or hail. Publicly available remote sensing data can deliver near real-time wildfire location data using satellite observations to determine if triggers on parametric policies are met.

The general idea of parametric insurance has been in use for decades through the application of large-scale transactions such as catastrophe bonds. However, parametric options for consumers have only recently been possible due to newer technologies and greater availability of data at an increasingly granular scale. While technology is affording new opportunities for parametric-style insurance products at the consumer level, parametric contracts are meant to supplement rather than replace traditional insurance coverage or to provide limited risk protection in instances where traditional insurance is unavailable. A parametric cover can help bridge coverage gaps in addition to traditional policies.

Parametric insurance could streamline the claims process and insurers can make payments to policyholders faster than under traditional insurance, often within days or weeks. Following natural disasters, speeding up the payment process can also accelerate disaster response and recovery, and reduce possible follow-on losses. Consumers also benefit from the transparency of the triggering event and from having certainty on the amount of payment they can expect to receive, which can be used flexibly to cover deductibles, lost revenue, or other expenses. Since the payment is based on a trigger being met rather than actual losses, insureds have an incentive to minimize their losses, reducing the insurance company's exposure to moral hazard.

Parametric contracts can also have broader benefits to society, such as a reduced chance of insurance fraud since the trigger is independently verified and the payment amount is fixed. Parametric policies can help reduce insurance gaps and expand insurance coverage in developing markets where traditional insurance may not be available or may be prohibitively expensive. The standardization of parametric contracts also makes it possible to effectively transfer a policy to capital markets via the growing market for insurance-linked securities.

INSURERS' LEADERSHIP IN ADDRESSING CLIMATE RISK

Insurers respond quickly to natural disasters and are there for their policyholders during extraordinary circumstances. Insurers work every day to keep families and communities safer through investments in and proactively promoting better roads, safer vehicles, stronger infrastructure, and increasing resiliency. Additionally, insurers have developed innovative products to address climate-related risks, including parametric insurance and catastrophe and resilience bonds.

Insurers operating in states that represent over 80 percent of the property casualty market now complete the updated NAIC climate risk disclosure survey, aligned with recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) guidelines. Many insurers have made environmental commitments and are engaged in a broad array of climate risk assessments, including scenario analysis and stress testing. Additionally, insurers provide risk management and mitigation services that help society manage its transition to a lower carbon future.

Insurers have also supported dozens of federal bills that Congress has introduced that would increase resiliency and help reduce losses from natural disasters. For example, APCA and RAA strongly support(ed) these bills:

- The Community Disaster Resilience Zones Act (CDRZ) of 2022 (Pub. L. 117-255) to direct public and incentivize private sector investment to improve resilience in communities that are the most in need and most at risk from natural disasters. This bill was passed in 2022 and is being implemented by FEMA.
- The Strengthening Homes and Eliminating Liabilities Through Encouraging Readiness (SHELTER) Act allows individual and business taxpayers a tax credit for 25 percent of their qualified hurricane and tornado mitigation property expenses.
- The Disaster Mitigation and Tax Parity Act would exempt state rebates that homeowners receive for hardening their homes against damage that would be done to such property (by a windstorm, earthquake, or wildfire) from federal taxes. States that currently offer these rebates are Alabama, California, Louisiana, and North Carolina.

A more comprehensive list of proposed bills that would improve risk identification, pre-disaster mitigation, preparedness, response, and recovery is included as an appendix to this document. We call on Congress to prioritize passage of legislation to help build the resiliency of communities and property owners.

CONCLUSION

The challenges facing (re)insurers reflect the challenges facing the larger society. Losses from natural catastrophes, inflation and other factors are increasing exponentially for everyone, including insurers. Even in the face of such challenges, insurance markets in most states are relatively stable. Where they are not, rates have not been allowed to keep up with the rising losses.

The immediate remedy for the market instability in some states is rate adequacy and the flexibility to tailor coverage to local realities. But the even more fundamental challenge for all of us is how to reduce those losses. (Re) insurers are already working with you on some responses but we need a far greater and wider commitment from all players.

Despite increasing frequency and severity of natural disasters, insurers are working to develop new and innovative solutions to meet policyholders needs, while advocating for mitigation to reduce losses. A meaningful reduction in losses should positively impact the affordability and availability of insurance.

In the near-term, amid rising inflation, supply chain issues and increasing natural disasters, the current pressure on financial results may require insurers to evaluate the need for rate adjustments and stricter underwriting, among other available tools. However, a growing body of evidence suggests a really comprehensive approach to mitigation provides the strongest long-term solution to reduce future losses, save lives, and prevent untold human tragedy.

We support the cooperation and coordination of stakeholders across government and the private sector to manage and reduce the financial impacts of disaster risk.

Ultimately, the highest priority of (re)insurers is to help protect what matters most for individuals, families and communities. So, we will continue to do everything we can to support them to prepare for and reduce their risks of loss and then help them rebuild their lives and restore their financial well-being when disaster strikes. Your full participation in this effort is much needed and much appreciated.

APPENDIX

Introduced in the 118th Congress -

National Weather Service Communications Improvement Act - H.R. 1496/S.1414, Rep. Feenstra (R-IA)/Sen. Cantwell (D-WA)

This bill would improve the National Weather Service's (NWS) communications of critical weather information to meteorologists and emergency responders, which informs notifications to communities. It would support the NWS' ongoing efforts to improve the reliability of their instant messaging service by requiring the implementation of a commercial off-the-shelf solution.

FIRESHEDS Act - H.R. 3522/S. 1719 Rep. Moore (R-UT)/Sen. Risch (R-ID)

This bill would utilize innovative Forest Service fireshed research and mapping to triage the top 10% highest risk "firesheds" and target those with landscape-scale fuel reduction treatments.

Wildfire Emergency Act - S. 188, S. 1715, Sen. Feinstein (D-CA)/Sen. Daines (R-MT)

The bill utilizes a multi-pronged approach to tackle the increasing wildfire threat, namely large-scale forest restoration projects, hardening of critical infrastructure, and increased training of key fire response personnel. For example, it would provide up to \$250 million to increase the pace and scale of forest restoration and wildfire resilience projects. These funds would allow large-scale restoration on up to 20 landscapes of at least 100,000 acres each to achieve maximum benefit. The bill also expands the weatherization assistance program to support the use of fire-resistant materials.

FIRE Act - H.R. 550, Rep. Mike Garcia (R-CA)

The bill establishes certain programs to improve wildfire forecasting and detection within the National Oceanic and Atmospheric Administration, including the development of weather research testbeds. (Testbeds are collaborative spaces where researchers and forecasters work alongside each other to integrate new systems into models, test and streamline data assimilation methods, and otherwise improve weather products and services for the benefit of the public.)

PREPARE Act - H.R. 2966/S. 1370, Rep. Morelle (D-NY)/Sen. Rubio (R-FL)

It would reestablish and strengthen the Small Business Administration (SBA)'s Pre-Disaster Mitigation loan program. This program would provide loans of up to \$500,000 to shield property, machinery, supplies, and inventory from damage caused by natural hazards. The proposed legislation would specifically instruct SBA to do extensive outreach and offer technical assistance for small businesses to maximize the program and benefits of proactive disaster preparation.

Disaster Mitigation and Tax Parity Act of 2023- H.R. 4070/S. 1953, Rep. LaMalfa (R-CA) & Rep. Mike Thompson (D-CA)/Sen. Feinstein (D-CA) & Sen. Tillis (R-NC)

This bill would exempt state rebates that homeowners receive for hardening their homes against damage that would be done to such property (by a windstorm, earthquake, or wildfire) from federal taxes. States that currently offer these rebates are Alabama, California, Louisiana, and North Carolina.

Taxpayer Exposure Mitigation Act - H.R. 1306, Rep. Luetkemeyer (R-MO)

This bill would amend the risk transfer section of the NFIP that allows for services by the insurance industry, including requiring the Administrator to annually cede a portion of the risk of flood insurance program that the Administrator deems reasonable to the private reinsurance or capital markets in an amount (after an 18-month period following enactment).

To Allow for the Consideration of Private Flood Insurance for Purposes of Continuous Coverage - H.R. 900, Rep. Castor (D-FL) & Rep. Luetkemeyer (R-MO)

This bill would amend the National Flood Insurance Act of 1968 to consider any period during which a property was continuously covered by private flood insurance to be a period of continuous coverage, including for the purposes of NFIP subsidies. This would allow consumers to purchase the flood insurance policy that works best for them, no matter if it is through the NFIP or the private market.

Introduced in the 117th Congress (Not yet reintroduced) -

Resilient AMERICA Act - H.R. 5689, Rep. DeFazio (D-OR)

This bill addresses disaster resilience issues and expands coverage for hazard mitigation. It would increase from 6% to 15% the estimated aggregate amount of grants that may be set aside for national public infrastructure pre-disaster hazard mitigation assistance; makes private nonprofit facilities eligible for technical and financial assistance for implementing cost-effective pre-disaster hazard mitigation measures; provides funding for water resources development projects; and expands the use of hazard mitigation assistance to cover certain activities pertaining to wildfires, tsunamis, and ice storms. Additionally, the Federal Emergency Management Agency (FEMA) must set aside 10% of funds made available for any given year to further the implementation and enforcement of the latest published editions of relevant consensus-based building codes. FEMA must carry out a residential resilience pilot program to provide grants for residential resilience retrofits (e.g., elevation of homes, floodproofing measures, wildfire retrofit and mitigation measures, and wind retrofits).

Built to Last Act of 2021 - H.R. 2760/S. 1282, Rep. Cartwright (D-PA)/Sen. Baldwin (D-WI)

It directs NOAA to identify and support research that enables a consistent, federal set of forward-looking long-term meteorological information that (1) models future extreme weather events, other environmental trends, projections, and up-to-date observations; and (2) is suitable for specified uses, including federal and nonfederal efforts to develop and adopt standards, building codes, and voluntary certifications. NOAA must provide NIST with mesoscale meteorological information when appropriate or upon request by NIST. NIST must publish the information and advice and provide technical assistance to organizations that develop standards, model building codes, or voluntary certifications for such organizations to appropriately use the information.

National Climate Adaptation and Resilience Strategy Act - H.R. 6461/S. 3531, Rep. Peters (D-CA)/Sen. Coons (D-DE)

The bill provides an obligation for the Federal Government to implement a unified strategy that coordinates efforts across all agencies in adapting to climate change. To ensure the obligation is fulfilled, the bill creates a Chief Resilience Officer of the United States position, establishes interagency resilience Working Groups, and requires a National Climate Adaptation and Resilience Strategy that will improve preparations nationwide for climate change, includes recommendations to compensate for the inequities in policy and resource allocations, and decrease the harm of climate change to human health and wellbeing in America.



Statement of Lincoln Avenue Capital
 In Response to the Senate Committee on Banking, Housing, and Urban Affairs
 Hearing on Perspectives on Challenges in the Property Insurance Market and the Impact on
 Consumers.
 September 7, 2023

We thank Chairman Brown, Ranking Member Scott, and the Senate Committee on Banking, Housing, and Urban Affairs for investigating the challenges in the property insurance market and the impact on consumers. We appreciate the opportunity to provide feedback to the Committee on how today's challenging insurance market is negatively impacting housing affordability and stifling economic development.

Just this week, *The Washington Post* reported on how some of the largest U.S. Insurance companies including Allstate, American Family, Nationwide, Erie Insurance Group and Berkshire Hathaway have stopped writing policies in some regions and are beginning to exclude protections from weather events and are raising premiums and deductibles.¹ While homeowner policies have been the focus in the press, affordable housing owners and developers are facing a similar if not more pronounced crisis.

Lincoln Avenue Capital (LAC) is one of the nation's leading developers, investors, and operators of affordable and workforce housing, providing high-quality, sustainable homes for lower- and moderate-income individuals, seniors, and families nationwide. LAC is a mission-driven organization that serves residents across twenty-three states including Arizona, Georgia, Louisiana, Montana, Nevada, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and Wyoming. We currently own more than 120 affordable rental communities providing homes for 22,000+ families.

Over the past two years, the dramatic rise in insurance premiums has been the most significant increase in the cost of owning and operating affordable rental housing. It is a significant contributor to inflation and declining housing affordability more generally. Despite a low loss-run history, in some markets our premiums doubled at our most recent insurance renewal in March of 2023. These significant increases have made it more challenging to preserve and develop affordable housing across the nation.

Our business focuses exclusively on developing and operating affordable homes in the communities that need them most. We primarily develop homes that are both rent and income

¹ <https://www.washingtonpost.com/business/2023/09/03/natural-disaster-climate-insurance/>





restricted, with the vast majority serve families earning 60 percent or less of area median income. Affordable housing operating budgets are by necessity lean. Increases in operating expenses of this magnitude are extremely challenging for all multifamily housing owners but the problem is particularly acute for affordable housing owners. At a time of significant housing affordability challenges across the nation, property owners are extremely limited in their ability to pass through increased operating costs to our residents, nor do they want to. If the current rate environment is sustained over time, mission-based affordable housing owners will be backed into a corner where their only choices will be to cut back services, defer maintenance or even exit affordability programs completely. These are all highly undesirable outcomes.

High insurance costs also severely constrain our ability to develop new affordable housing at a time when there is a desperate need to add to the nation's housing supply. Reinsurance capacity in the market is extremely constrained, to the point that in some markets it is nearly impossible to place insurance policies at rates that affordable developments can support. Markets where Catastrophe (CAT) Risk from perils ranging from hurricanes, floods, wildfires, earthquakes, and hail are particularly difficult to navigate. While we invest heavily in strategies to de-risk our portfolio and harden our physical assets against natural disasters, we receive little benefit from insurers, who are increasingly refusing to write policies in CAT markets or will do so only at prohibitive rates and with exclusions that dilute the value of the coverage.

Our financial counterparties require owners to carry adequate insurance. If we are unable to procure affordable insurance, we will be in default of our loan covenants which unchecked will lead to waves of defaults that would harm residents and have a crippling effect on the economy.

We strongly urge Congress and the Administration to prioritize fixing the structural issues plaguing the property insurance market with particular attention to the affordable housing community. We recognize that this is no small call-to-action. The insurance market is complicated, with many stakeholders, both domestic and, increasingly, foreign. Of the top fifty global reinsurers (who provide insurance for insurance companies), only eight are based in the United States.

There are several structural solutions Congress could consider. For example, the federal government has on several occasions intervened in the insurance markets when there have market failures. Precedents and models to consider include:

- Terrorism Risk Insurance Act (TRIA), which created a federal program that provides for a transparent system of shared public and private compensation for certain insured losses resulting from a certified act of terrorism.





- The Federal Flood Insurance Act of 1956 and the National Flood Insurance Act of 1968, which established the National Flood Insurance Program.
- The Federal Crop Insurance Act (FCIA), which provides federally subsidized insurance premiums for farmers.
- Urban Property Insurance Protection and Reinsurance Act of 1968, which was adopted to mitigate unfair insurance practices, created the legal framework and infrastructure for states to public/private state risk-share insurance plans for some high-risk properties and individuals.

Congress and the Administration may also consider enhancing its current offering of multifamily insured and guaranteed loan programs (administered through the Federal Housing Agency, USDA Rural Housing Services, Fannie Mae, and Freddie Mac) to cover supplemental CAT risk. Additional strategies to consider could include tax incentives, price supports and premises liability reform.

In addition to Congressional action, there are several strategies the administration could pursue to through regulatory and administrative action to assist affordable and multifamily owners navigate this difficult market. The Senate Committee on Banking, Housing, and Urban Affairs could use its oversight authority over the US Department of Housing and Urban Development to accelerate action related to programmatic income limit caps that are not tracking inflation, review and enhance HUD's approach to calculating Operating Cost Adjustment Factors (OCAFs) as it relates to insurance costs, and review and enhance minimum insurance requirements for affordable housing debt programs administered by FHA, Fannie Mae and Freddie Mac to allow affordable housing developers appropriate flexibility in their insurance procurement strategies. Likewise, where HUD currently has authority to make budget-based rent increases in the HUD-Assisted portfolio, it could emphasize communities most hard hit by insurance inflation.

In the long-term, we believe it is also important to continue to invest in solutions that harden affordable housing communities against natural disasters. The Administration can facilitate this by deploying existing and already funded resources towards disaster mitigation. For example, with guidance from the Department of Energy, the Weatherization Assistance Program, which received record funding in the Building Infrastructure Law, could easily be used to facilitate more investments in resiliency and alongside sustainability. We hope that as HUD makes its initial funding decisions for its new Green Retrofit and Resiliency Program, which was created in the Inflation Reduction Act, the awards will reflect an increased emphasis on resiliency.





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Given the scale of the affordable housing crisis and the unique challenges affordable housing owners and developers face in the insurance market we hope you and your committee will pay special attention to this sector as you explore solutions. We thank you for shining a light on this important issue and look forward to working with Committee on developing solutions.





Statement of the Affordable Housing Tax Credit Coalition

In Response to the Senate Committee on Banking, Housing, and Urban Affairs Hearing on Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers.

September 7, 2023

The Affordable Housing Tax Credit Coalition (AHTCC) is a national trade association comprised of more than 250 housing organizations advocating to expand and strengthen the Low-Income Housing Tax Credit (Housing Credit), our nation's primary tool for financing affordable rental housing. We thank Chairman Brown, Ranking Member Scott and the Senate Committee on Banking, Housing, and Urban Affairs for holding this hearing examining challenges in the property insurance market and the impact on consumers. We appreciate the opportunity to provide our perspective on how current insurance marketplace dynamics are impeding the development and preservation of affordable rental housing, as well as negatively impacting the performance and viability of the existing affordable rental housing stock.

The need for affordable housing has skyrocketed—at the end of 2022, our country was **3.8 million homes short** of meeting the general housing needs of Americans¹ and **7 million homes short of housing to serve extremely low-income renters**². For this reason, the AHTCC is urging Congress to enact the Affordable Housing Credit Improvement Act (S. 1557), broadly-supported, bipartisan legislation that would increase our nation's affordable housing supply by nearly 2 million more affordable homes than would otherwise be possible.

While legislation to increase our nation's affordable housing supply is sorely needed, affordable housing developers, owners and operators are also experiencing unprecedented challenges in financing and operating affordable rental housing due skyrocketing cost increases of casualty, general liability, and builders risk insurance. If not addressed soon, insurance premium inflation will cause irreparable harm to existing affordable housing communities and prevent the ability of developers to finance desperately-needed new affordable housing supply.

Escalating insurance premiums are a significant contributor to rent inflation and broadly affect rental housing affordability across the country. Affordable housing operators are particularly vulnerable to insurance inflation because they cannot pass premium increases through to residents.

¹ Up for Growth, *Housing Underproduction™ in the U.S., 2022*. Available at: <https://upforgrowth.org/apply-the-vision/housing-underproduction/#text=Housing%20Underproduction%20occurs%20when%20communities%20and%20total%20housing%20availability>
² National Low Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, 2023. Available at: <https://nlhc.org/gap>



According to a recent survey from the National Multi Housing Council, as of the first quarter of 2023, property insurance rates in the United States have increased for twenty-two consecutive quarters. Over the past three years, insurance premiums have skyrocketed, with many owners having experienced year-over-year premium increases from 30 to 100+ percent at affordable rental housing communities.³



Insurance inflation is a significant barrier to the development and financing of new affordable housing. This is further compounded by supply-chain disruptions and the run-up in interest rates and construction costs, thereby stressing development budgets to the breaking point. Rising operating costs (driven primarily by insurance inflation), combined with high construction costs and the rising cost of capital, are making affordable housing transactions today increasingly unfeasible.

There are several factors contributing to insurance premium inflation. The trend is being driven by increased claims due to natural disasters including hurricanes, wildfires, convective storms, tornados, hail storms, winter storms/cold-waves, derechos, flooding and droughts/heat waves. Increasing numbers and claim amounts on liability policies driven by litigation and large dollar judgements are also a significant factor. Inflation also plays a major role – as construction costs increase across the country, additional coverage must be purchased to reflect corresponding inflated replacement values. The misuse of risk-modeling tools like Crime Scores can further exacerbate costs and the ability buy coverage, particularly for community development organizations that are working to revitalize distressed communities.⁴

³ NMHC State of Multifamily Risk Survey & Report, June 2023 <https://www.nmhc.org/research-insight/research-report/nmhc-coalition-survey-shows-multifamily-insurance-costs-continue-to-rise/>

⁴ https://www.sahfnet.org/sites/default/files/documents/crime_score_report_-_final_10-16.pdf



The consequences of inaction could be dire. If the insurance marketplace is not stabilized, affordable housing production will decline dramatically at a time when the country desperately needs to add to its housing supply. Furthermore, existing affordable housing communities (both subsidized as well as naturally occurring affordable housing) will face financial duress that could result in reduced services and deferred maintenance in the short-term and loss of affordability in the long-term through defaults, programmatic opt-outs and rent increases. We call on Congress and the Administration to take proactive steps to investigate the root causes of this crisis and to design policy solutions that assist owners and developers of affordable rental housing. This should include a combination of approaches including long-term structural fixes that address the root causes of the failure in the insurance marketplace as well as short-term support that will help assist owners and developers navigate the current insurance renewal environment.

We thank you for your continued leadership and look forward to continuing to work with you and all the members of the committee on these priorities in the 118th Congress.



September 14, 2023

The Honorable Sherrod Brown
Chair
Senate Committee on Banking, Housing, and Urban Affairs
U.S. Senate
Washington, DC 20510

Dear Chair Brown:

Thank you for accepting a letter for the record of the September 7, 2023, hearing, "Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers." In addition to our comments below, LeadingAge would like to associate ourselves and support the hearing testimony of Michelle Norris, executive vice president of external affairs and strategic initiatives, National Church Residences, a LeadingAge member.

About LeadingAge

We represent more than 5,000 nonprofit aging services providers and other mission-minded organizations that touch millions of lives every day. Alongside our members and 38 state partners, we use applied research, advocacy, education, and community-building to make America a better place to grow old. Our membership encompasses the entire continuum of aging services, including skilled nursing, assisted living, memory care, affordable housing, retirement communities, adult day programs, community-based services, hospice, home-based care. We bring together the most inventive minds in the field to lead and innovate solutions that support older adults wherever they call home.

LeadingAge's membership includes more than 2,000 mission-driven owners of affordable senior housing, many using programs of the U.S. Department of Housing and Urban Development, like the Section 202 Supportive Housing for the Elderly and Section 8 Project-Based Rental Assistance programs and the U.S. Treasury's Low Income Housing Tax Credit program to provide affordable housing to older adults.

Aging in Community

Nationally, HUD-assisted senior housing households have average annual incomes of \$15,052. Sixteen percent of residents are 85 years old or older. About half of HUD-assisted senior communities have a service coordinator who connect residents to services and supports available in the surrounding community so residents may age in independent housing for as long as possible.

Rising Insurance Costs in Affordable Senior Housing

HUD's portfolio of programs serves more than two million older adult households, more than 800,000 of whom live in Section 202 and Section 8 PBRA project-based housing, where most private owners are facing exorbitant and untenable insurance cost increases.

In an April 2023 LeadingAge member survey, 43% of our affordable housing provider members said that property insurance rates and related costs increased by at least 10% in the last year, or were expecting that increase in the next three months:

- 13% reported a property insurance rate increase of 20 – 29%;
- 28% reported an increase of 10 – 19%;
- 2% reported an increase of more than 30%.

Again, this is one year-over-year snapshot of insurance rates that reset annually. Our members also shared that despite the increase in insurance rates, the coverage was reduced in many cases, and minimum deductibles were increased. In some cases, providers were forced to purchase an additional insurance policy for their minimum deductible (a “deductible buy-down” policy) because the deductible was raised out of range of the property’s cash flow.

Reasons for Increases

In most cases, LeadingAge’s affordable senior housing provider members report that there are no claims history at the properties where insurance rates increased. According to the LeadingAge member survey from April 2021, even in the case of drastic increases, no claims history was cited by the insurance carrier or broker as the reason for the increase. Instead, the insurance industry cited market trends as the most common reason for the increases.

In addition to market trends that have allowed “runaway” insurance rates, affordable senior housing providers have had to contend with incorrect assumptions about the independent housing being provided. For example, insurers mistakenly conclude that in independent living communities where most residents are, by design, older adults, there must be a medical or healthcare aspect to the core nature or function of the building and/or its staff.

In reality, the vast majority of HUD-assisted multifamily housing communities serving older adults have no medical staff on site and offer only referrals to services in the community that residents can access. And while certain HUD senior housing providers must have an emergency notification system in place for resident use, these are mostly maintained and monitored by third-party providers who have their own insurance for their own products.

The incorrect assumption that senior housing is a healthcare or medical setting brings even higher insurance costs, fewer insurance vendors, and higher deductibles to already strapped providers. There are a limited number of insurance carriers for what is often called a “specialty” program because there is an overall lack of understanding about the affordable senior housing setting (it is not a healthcare setting but a real estate setting). The limited number of insurance carriers results in limited market competition and capacity, which in turn has resulted in not just rate and deductible increases, but less coverage, difficulty renewing policies despite minimal claims history, and housing providers getting “dropped” without a chance to demonstrate loss control measures.

Impact on Affordable Senior Housing Communities

HUD requires, with good reason, assisted housing communities to have insurance coverage and deductibles at certain levels. LeadingAge supports insurance requirements as necessary for due diligence and fiscal responsibility.

With insurance requirements in place from HUD but fewer and more expensive insurance products available for providers, the issue of insurance coverage presents an affordable housing preservation issue for housing providers across the country. In some cases, HUD can offer “band aid” fixes by allowing a waiver to the minimum deductible requirement so that a provider can remain financially solvent; in

other cases, HUD can approve a budget increase to allow a housing provider to cover the insurance rates. In both cases, providers are left with real concern for the financial viability of their properties.

Relying on HUD funding approvals and waivers is a temporary and imperfect approach that falls short of guaranteeing the preservation of affordable housing in the long-term. In addition, instead of housing more older adults, these approaches rely on HUD's limited rental assistance funds to subsidize the insurance industry's increased rates and profits.

Seeking Solutions

LeadingAge and our affordable senior housing provider members hope to educate and develop partnerships with brokers and carriers that understand affordable senior housing; solicit State Department of Health/Aging assistance in assuring broker/carrier that property is not any type of state regulated health provider; document and communicate loss control measures at the property, like emergency call systems that go directly to a third party for response (liability is not with the property); fall prevention techniques and rules; and, early damage detection tools (like water sensors at each floor or advance fire safety devices).

We also think there is a role for the federal government to offer an insurance product for affordable housing. Additionally, clarity in HUD rules (in 4350.1) on separate entities engaged under one "blanket policy" to allow smaller organizations to risk-share with others could be helpful, as would real-time HUD subsidy adjustments for Operating Cost Adjustment Factors and approvals Budget-Based Rent Increases. HUD has made steps to improve these processes, but the increases are coming to providers faster than HUD can adjust.

The solution is not how to pay for runaway insurance increases. The long-term, responsible solution is to reign in and normalize the cost of insurance for affordable housing with policies that protect current and future residents, the federal investment, and owners. Until then, HUD funding that does cover exorbitant insurance costs takes away, dollar for dollar, funds that should be spent to address the severe shortage of affordable housing in this country.

Please reach out to Linda Couch, lcouch@leadingage.org, with any questions.

Thank you for considering our comments.

Sincerely,

Linda Couch
VP, Housing and Aging Services Policy



September 13, 2023

The Honorable Sherrod Brown
Chair
Senate Banking Committee
503 Hart SOB
Washington, D.C. 20515

The Honorable Tim Scott
Ranking Member
Senate Banking Committee
104 Hart SOB
Washington, D.C. 20515

Dear Chair Brown and Ranking Member Scott:

SmarterSafer is a national coalition made up of a diverse chorus of voices who champion a united front for environmentally responsible and fiscally sound approaches to natural catastrophe mitigation and the promotion of public safety. SmarterSafer wishes to comment on the Senate Banking Committee's recent hearing focused on property and casualty insurance markets and policyholders.

We wholeheartedly champion the idea of public/private partnerships and private market participation as means to effectively manage the risks associated with natural disasters while ensuring the financial stability of communities and protecting the environment. Private reinsurance plays a crucial role in this equation. It offers an additional layer of financial support that can be instrumental in helping communities recover from catastrophic events without resorting to overwhelming public funds. As such, we are concerned by any conversation that would displace a vibrant private market with a federal reinsurance program for natural disaster risks, which we believe can have detrimental consequences. Our opposition to the establishment of any such reinsurance backstop revolves around what we view are inherent risks with such a concept.

Firstly, a federal reinsurance program can unintentionally incentivize risky behavior by obscuring the true cost of risk, which private reinsurance reflects. A federal reinsurance program ignores the underlying issues of overbuilding in high-risk areas, inflation, forward looking climate change impacts on severity and frequency of extreme weather and can encourage new development in environmentally sensitive and high-risk areas, putting both the environment and the safety of our communities at risk.

Secondly, establishing a federal reinsurance program would come with significant federal cost (billions) paid for by all taxpayers. A federal reinsurance program also does nothing to address the uninsured that rely on limited federal disaster assistance in the aftermath of natural disasters.

Displacing private insurance and reinsurance with a federal reinsurance program will supersede state-based insurance regulation, providing dual regulation, by adding the federal government as a regulator of property insurance markets across the country and encouraging additional, state-government programs to assume property risk.

SmarterSafer has strong concerns that efforts to establish a federal reinsurance program for natural disaster risks fail to effectively address the challenges posed by such disasters and could

incentivize risky behavior, as noted, in addition to shifting financial burdens from the private sector to federal taxpayers, and ultimately hinder the pursuit of more responsible solutions.

We are strong advocates for means-tested assistance in addressing affordability concerns. Moreover, we firmly believe that the ultimate solution lies in reducing risk through proactive mitigation efforts, improving building codes and enforcement, and discouraging construction in hazard-exposed and environmentally sensitive areas. By emphasizing the importance of risk reduction and responsible land use planning, we can not only minimize the need for subsidies and a federal reinsurance program but also promote long-term sustainability and fiscal responsibility.

Furthermore, it is crucial to encourage states to transition to private insurance systems based on risk-based rates, an approach that aligns with the principles of risk-based insurance. This transition ensures that sufficient premiums are collected to cover claims without relying on additional federal taxpayer dollars. In areas where there are affordability concerns, we are strong advocates for means-tested financial assistance, that does not “mask” risk-based rates as they provide important signals of increasing risk.

While the global reinsurance markets have faced certain profitability challenges in recent years, they remain highly solvent. Global reinsurers have had to manage the cover they provide against catastrophic property insurance risks after several years of large catastrophe losses, particularly as prices have failed to keep pace with weather-related losses. Insurers and reinsurers are only able to attract additional investment capital if they are able to offer investors an adequate rate of return. The historically elevated catastrophe and claims activity since 2017 has created doubts on the part of re/insurers and investors, which slowed the capital supply response. However, reinsurers are still offering ample cover for severe catastrophes.¹ While global reinsurance capital in 2022 contracted by \$87 billion, by the first quarter of 2023, global reinsurer capital increased by five percent (\$30 billion) to \$605 billion.² Additionally, by the end of the first half of this year, reinsurance capital grew 13% to \$709 billion (close to the \$725 billion peak in 2021).

The challenges facing reinsurers reflect the challenges facing the larger society. Losses from natural catastrophes, inflation and other factors are increasing exponentially for everyone, including reinsurers, and thus require long-term solutions to reduce future losses. SmarterSafer stands ready to collaborate with you and the Senate Banking Committee to explore alternative, more responsible solutions to the pressing issues surrounding natural disaster policy. We urge the Committee to consider our positions as we collectively work to protect both taxpayers, communities, and the environment.

Thank you for the opportunity to comment. We look forward to future discussions on this important issue.

¹ <https://www.fitchratings.com/research/insurance/global-reinsurers-pull-back-from-natural-catastrophe-cover-24-08-2023>

² <https://www.aon.com/getmedia/5bd28313-9c37-461c-b665-69a910bf0a6a/20230628-midyear-rmd.pdf>

Sincerely,

The SmarterSafer Coalition

MEMBERS

Environmental Organizations

American Rivers
Center for Climate and Energy Solutions (C2ES)
ConservAmerica
Defenders of Wildlife
National Wildlife Federation
Natural Resources Defense Council (NRDC)
The Nature Conservancy
Surfrider Foundation

Consumer and Taxpayer Advocates

Coalition to Reduce Spending
National Taxpayers Union
R Street Institute
Taxpayers for Common Sense
Taxpayers Protection Alliance

Insurer and Reinsurer Interests

American Property Casualty Insurance Association (APCIA)
Association of Bermuda Insurers and Reinsurers (ABIR)
Chubb
Liberty Mutual Group
National Association of Mutual Insurance Companies (NAMIC)
National Flood Association
Reinsurance Association of America
Swiss Re
USAA

Mitigation Interests

Natural Hazard Mitigation Association

Housing

Habitat for Humanity
National Housing Conference
National Leased Housing Association

ALLIED ORGANIZATIONS

Allianz of America
American Conservation Coalition
American Consumer Institute
Center for Clean Air Policy
CoreLogic

SMARTERSAFER.ORG
Americans for Smart Natural Catastrophe Policy

Friends of the Earth
Institute for Liberty
Zurich North America