

## Insurers' 60-year 'temporary' reprieve

It's been almost two years since Hurricane Katrina decimated the Gulf Coast, yet many wards in the great city of New Orleans continue to resemble the back lot of a World War II movie set.

The insurance industry, which many beleaguered residents trusted to help them rebuild, has instead abandoned them without hope. By blaming the destruction on floodwaters—not covered by most homeowner policies—rather than wind and rain, the insurance giants have deserted faithful premium payers and are now busy counting their record profits.

This tragedy has focused national attention on a business that enjoys a perquisite available to very few others—immunity from federal antitrust laws. The mistreatment of Gulf Coast residents has angered the nation, and it appears the U.S. Congress might finally be ready to address this special privilege afforded to an industry that doesn't deserve it.

From 1868 to 1944, insurance regulation was solely within the province of the individual states. That changed when the U.S. Supreme Court ruled, in *United States v. South-Eastern Underwriters Association*, that the business of insurance involved interstate commerce, shifting oversight responsibility to Congress. (322 U.S. 533 (1944).)

Federal lawmakers reacted by adopting the McCarran-Ferguson Act, effectively exempting the insurance industry from most antitrust laws. While the measure was intended to be temporary, affording Congress an opportunity to sift through the implications of *South-Eastern Underwriters*, it has lasted more than 60 years.

The results have been arbitrarily high insurance premiums and a stubborn unwillingness by insurers to provide policyholders with the assistance they desperately need. This cruel combination brought about countless personal financial tragedies that played out on

the national stage in Katrina's aftermath. But all too often, insurers have used the same ploys and bogus arguments in other, less-publicized disasters.

Under the current system, giant insurance companies like Allstate and State Farm can legally collude to fix prices, a chilling practice that serves as the very definition of anticompetitive conduct. McCarran-Ferguson also opens the door to agreements among carriers that ensure policyholders don't receive fair compensation in the wake of natural disasters like Hurricane Katrina. And they can even divvy up areas, with one company agreeing to avoid regions monopolized by another.

### Pocketing profits

If competition breeds lower consumer prices, as the marketplace generally holds, it stands to reason that a noncompetitive environment, fueled by a lax regulatory regimen, results in higher costs to the public. Not surprisingly, it also stuffs more profit dollars into corporate pockets. A.M. Best, a ratings agency, estimates that the property-casualty industry earned a record \$68 billion in 2006. That's an increase of \$19 billion over 2005 figures. This year, profits could total \$62.2 billion if the storm season is relatively mild.

Even worse, the insurance industry can easily snub policyholders, leaving them with little leverage when they seek compensation for covered losses. Gulf Coast residents, too many of whom lost practically everything they had during the 2005 hurricane season, turned to the insurance industry for relief, seeking recompense after years of paying premiums. The companies, as has now been thoroughly documented, turned their backs on them.

Adding insult to injury, Allstate and State Farm recently announced that they are abandoning the Gulf Coast. This means potential residents, looking to plant new roots in the region, will find it



difficult to get insurance to protect their property. When insurance is available at all, the price will be exorbitant.

Exasperated Gulf Coast residents have, as a last resort, taken legal claims to court in a desperate effort to collect the compensation they deserve after years, sometimes decades, of pouring money into the insurance industry's coffers. The courts remain the best place to hold these companies accountable.

Legislation has been introduced in both the House and the Senate to eliminate what was intended as a temporary reprieve for the insurance industry from federal oversight. The repeal of McCarran-Ferguson is being pushed by lawmakers, including Sens. Trent Lott (R-Miss.) and Mary Landrieu (D-La.), who suffered personal losses as a result of the hurricane and witnessed firsthand the tragedy that befell neighbors and friends.

McCarran-Ferguson was a bad idea in 1944 and it's a bad idea now. The insurance industry has proved time and time again that it doesn't deserve the special treatment afforded by Congress. Six decades is more than long enough for any temporary measure.

LEWIS S. "MIKE" EIDSON