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Examining the impact of extreme weather events on the resiliency of the property and casualty insurance market in New York State

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On behalf of Public Citizen, a national public interest advocacy organization with more than 500,000 members and supporters, thank you for the opportunity to provide testimony. Since its founding in 1971, Public Citizen has developed a long history of consumer advocacy across a range of insurance issues, pushing auto insurers to invest in loss reduction, ensuring stronger insurance oversight after the financial crisis, and advocating for greater access to health insurance. Today, we are deeply concerned about the impact of climate change on insurance markets.

As climate change drives up the costs of extreme weather, insurance prices will rise as well. There have been 25 billion-dollar disasters this year alone, and climate-fueled disasters created a whopping total of $165 billion in damages last year.[i] This summer, global reinsurers dramatically raised their prices, raising costs across the industry for primary insurers and policyholders.[ii] Several major insurers announced they would exit vulnerable areas, and as some areas risk becoming uninsurable, consumers will face devastating financial impacts.[iii]

These impacts are not hypothetical. We are already hearing from our members about premium increases in the thousands of dollars and abrupt cancellations, even without any claims filed.[iv] More members say they are forced to rely on barebones, last-resort coverage that they know leaves them financially exposed. Others say they are forced to use their retirement savings to pay for repairs their insurance did not cover.[v] As a last resort, some report that they sold their homes, transferring the risk to new buyers.[vi]

As an unprepared industry scrambles to respond to rising costs, these risks shift inequitably to the public. New York's experience with Hurricane Sandy shows how climate change can be a boon for the industry while devastating the most vulnerable communities. Hurricane Sandy caused an estimated $60 billion in property damage, at least $8 billion of which has been attributed to the impacts of climate change, and it damaged 340,000 homes and apartments.[vii] As low-income homeowners in the majority-minority neighborhood of Canarsie struggled to recover, New York officials warned of the potential for a foreclosure crisis as homeowners struggled to make repairs and maintain their mortgages.[viii] And while thousands of homeowners reported not receiving sufficient flood insurance payments, the private companies administering flood insurance policies made hundreds of millions in profits.[ix]

Protecting access to insurance requires careful attention, and lawmakers should be mindful of past mistakes, including the failures of the National Flood Insurance Program to expand coverage and disincentivize development in flood zones and the early unintended consequences of FAIR plans on housing.[x] At the same time, lawmakers should recognize the grave risks of a lack of government oversight and timely intervention. The current climate-driven insurance crisis contains striking parallels with the 2008 financial crisis, as seemingly sophisticated risk managers nevertheless accelerate growing risks in mortgage markets that could spread to the rest of the economy.[xi]

As a state that has significant exposure to climate disasters but has been at the vanguard of climate-related financial regulation, New York has a unique role to play in this crisis. New York lawmakers should prioritize collecting data to inform strong oversight and consumer protection. In addition to state investments in mitigation and adaptation, lawmakers should also address the role of insurers as major financial gatekeepers and investors and explore avenues for reducing insurers' investments in fossil fuels while increasing their investments in vulnerable communities.

Protecting consumers and monitoring financial risks requires transparency.

Recognition of a climate-driven insurance crisis is long-overdue, and it has been obscured by a fragmented, dysfunctional insurance data collection system.[xii] While announcements from insurers, anecdotal evidence, and the growing number of homeowners relying on state last resort programs across the country highlight a problem, they do not paint a complete picture. Assessing the impacts of climate change requires location-based (zip-code or ideally census tract) data on insurance claims and premiums that can be compared with physical climate risks. As highlighted by New York's attorney general in 2021, "there is presently a dearth of information" available from state regulators and insurers on the availability of insurance for vulnerable communities, the impacts of climate change, and the potential implications of those impacts for state and federal programs.[xiii]

New York lawmakers should urge the Department of Financial Services to collect data through a state-level collection and continue this annually. While a recently finalized collection from the U.S. Treasury Department's Federal Insurance Office is designed to provide a necessary national baseline for data, New York should collect crucial data that was left out of this collection, such as data on insurance deductibles and claims closed without payment.[xiv] A 2022 NYDFS report on the increases in insurance premiums for affordable housing developments, which found that insurance companies routinely deny insurance to buildings with subsidized tenants, provides an example of the type of report that NYDFS should provide regularly on the impacts of climate change.[xv]

Data on insurance premiums is essential to monitor financial risks, including risks to mortgage lenders and regional banks. Data on insurance premiums should also be considered a crucial form of information for community planning and climate adaptation. As the industry increasingly presents higher premiums as a form of climate risk communication—price signaling that informs ratepayers about climate-related risk—it cannot continue withholding data necessary to evaluate climate impacts properly.

These data are also essential to provide strong oversight to ensure that insurers are serving ratepayers fairly. In the absence of data, insurers can exploit a dysfunctional data system, the complexity of insurance policy terminology, a peril-by-peril coverage system, and an arduous claims process to shift risks in ways that consumers, policymakers, and regulators may not notice.[xvi] As insurers make Swiss cheese out of a safety net, an underinsurance crisis could grow under the radar, obscuring the full extent of financial risks until after a disaster. Even highly educated policyholders may not realize until after a disaster that they are unable to get sufficient payments due to a percentage-based or windstorm deductible that is too high, a new coverage exclusion, a switch to replacement cost coverage rather than actual cash value, or an undervalued home.[xvii] As pressure grows on underprepared insurers, they may also be tempted to delay or underpay claims. Anecdotal evidence highlights the devastating toll these strategies can take on homeowners. Comprehensive data is necessary to determine whether these are growing trends.[xviii]

In addition to official data collections, lawmakers should proactively work with marginalized communities, whose extensive experience with exclusionary and illicit tactics from insurers will be essential to informing climate-related consumer protections.[xix] Just as the early signs of the 2008 financial crisis were observed through predatory behavior in marginalized communities, so too are the strategies and tactics that insurers under pressure may use to protect their profits via underinsurance or claim underpayments.[xx]

New York should hold insurers accountable for their climate commitments.

Protecting New York homeowners and renters also requires reducing the risk they face. New York can work to reduce risk through sustained investments in mitigation and adaptation, attention to long-term land use planning, targeted premium assistance for low-income policyholders and funding for relocation for those who want it. New York regulators and lawmakers should make sure that the state's insurance industry is not undermining these efforts and ensure that insurers invest in, rather than bet against, New York communities. While New York took the first step to address this issue in 2021 by issuing guidance to insurers on climate-related financial risks, stronger action is needed to meet the scale of the crisis.[xxi]

Just as homeowners need insurance to maintain a mortgage, fossil fuel companies need insurance to obtain permits to operate and to obtain financing. In addition, new fossil fuel projects require significant investments. By providing insurance to new fossil fuel projects, most major U.S. insurers continue to greenlight the development of new fossil fuel projects, while doubling down against their policyholders by investing the premiums they collect in fossil fuel companies.[xxii]

As one of our members stated, "it is a slap in the face of ordinary homeowners that insurance companies are fueling climate change and then jacking up premiums."[xxiii] But this is not just hypocrisy. As insurers count on fossil fuel expansion, they are eroding their own markets and increasing the physical and financial harm their policyholders will face. They also increase the threat of transition risks when fossil fuels inevitably decline in value, as highlighted by a recent paper from the Federal Reserve Bank of New York.[xxiv]

With growing public attention, it is clear that insurers have felt pressure to announce commitments to reduce their carbon emissions. However, the question is whether these commitments represent meaningful efforts to change or attempts to greenwash their reputation for the public. Unfortunately, our public records research shows that while insurers are dropping homeowners quickly, they are bending over backward to create loopholes in their own climate policies to continue insuring powerful fossil fuel companies.[xxv] Most insurers have also now left their own voluntary industry net-zero initiative, the Net-Zero Insurance Alliance, demonstrating they will not hold one another accountable.[xxvi]

Insurers' failure to maintain their own commitments clearly shows that stronger action is needed. As insurers abandon their own voluntary initiative, it is time for regulators to act and for lawmakers to ensure that New York insurance regulators have the clear authority to do so. As a matter of both consumer protection and prudential regulation, NYDFS should require insurers that have made public climate commitments to develop and execute credible plans to fulfill those commitments.

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[ii] Reinsurance is essentially insurance for insurance companies. Emily Flitter, "How a Small Group of Firms Changed the Math for Insuring Against Natural Disasters," *The New York Times*, August 16, 2023.
[iii] Jacob Bogage, "Home insurers cut natural disasters from policies as climate risks grow" *The Washington Post* (September 2023).
[iv] Public Citizen and Americans for Financial Reform, "FIO Climate Data Petition" (2022).
[v] Ibid.
[vi] Ibid.
[vii] Nathan Rott, "Climate Change's Impact on Hurricane Sandy Has a Price: $8 Billion," *NPR* (May 2021); Federal Emergency Management Agency, "Remembering Sandy Five Years Later," (October 2017).
[viii] Jie Jenny Zou, "Insuring Catastrophe," *Center for Public Integrity* (February 2020).
[ix] Laura Sullivan, "Business of Disaster: Insurance Firms Profited $400 Million After Sandy," *NPR* (May 24, 2016).
[x] Howard Kunreuther, "Troubled Waters: The National Flood Insurance Program in Historical Perspective," Cambridge University Press (June 2014); Bench Ansfield, "The Crisis of Insurance and the Insuring of the Crisis: Riot Reinsurance and Redlining in the Aftermath of the 1960s Uprisings," Journal of American History, Volume 197, Issue 4 (March 2021).
[xi] Public Citizen, "As Climate Change Drives Insurance Crisis, Groups Call on FSOC and Regulators to Protect Economy," (November 2023).
[xii] Public Citizen, "Letter to OMB on Federal Insurance Office Climate-Related Financial Risk Data Collection" (December 2023).
[xiii] The current climate risk survey conducted by the National Association of Insurance Commissioners and a recent voluntary NAIC survey excludes the relevant granular data.
[xiv] Public Citizen, "Letter to OMB on Federal Insurance Office Climate-Related Financial Risk Data Collection" (December 2023).

[xv] New York State Department of Financial Services, "Affordable Housing and Insurance" (November 2022).
[xvi] Jay Feinman, "What is a Protection Gap? Homeowners Insurance as a Case Study," *Connecticut Insurance Law Journal*, Vol. 27, No. 1 (March 2020).
[xvii] Testimony of Sharon Lewis, Executive Director of the Connecticut Coalition for Economic and Environmental Justice, U.S. House Financial Services Housing and Insurance Subcommittee "Factors Influencing the High Cost of Insurance for Consumers" (November 2023).
[xviii] Erika Fry, "Almost everyone is getting screwed': After climate disasters, homeowners find their battle with insurers is just beginning," *Fortune* (August 2021).
[xix] Emily Flitter, "Seeking the 'Right' Customers, an Insurer Is Accused of Discrimination," *The New York Times* (December 2022).
[xx] Emily Flitter, New Suit Uses Data to Back Racial Bias Claims Against State Farm, *The New York Times* (October 2023).
[xxi] Public Citizen, "New York Issues Climate Change Insurance Guidance," (November 2021); New York State Department of Financial Services, "2021 Update on New York Domestic Insurers' Management of the Financial Risks from Climate Change" (July 2022).
[xxii] Insure Our Future, "50 Years of Climate Failure: 2023 Scorecard on Insurance, Fossil Fuels and the Climate Emergency," (2023).
[xxiii] Public Citizen and Americans for Financial Reform, "FIO Climate Data Petition" (2022).
[xxiv] Hyeyoon Jung, Robert Engle, Shan Ge, and Xuran Zeng, "Measuring the Climate Risk Exposure of Insurers," Federal Reserve Bank of New York, Number 1066 (July 2023).
[xxv] Public Citizen and Insure Our Future, "Covering Coal: The Top Insurers of U.S. Coal Mining," (September 2023).
[xxvi] Evan Halper, "Companies made big climate pledges. Now they are balking on delivering." *The Washington Post* (December 2023).