

Hail is Pounding Texas Homeowners and Their Insurance

Insurance costs and availability are at risk across Texas without common sense lawsuit reform.

While Texas homeowners dread the sound of hailstones hammering their roofs, in recent years it's become music to the ears of unscrupulous trial lawyers and others looking to make big bucks at the expense of Texans across the state and their insurance companies.

In just a few years, a spike in hail-related lawsuits has forced Texans to pay more for their homeowners insurance, meet higher deductibles and search harder for coverage as some insurance companies limit policy offerings or even retreat from some parts of the state altogether. A few trial lawyers and other third parties are getting rich, while hard-working Texans suffer not just from the hail, but its aftermath.

Lawsuit reforms are needed to end abusive practices while allowing for continued consumer protections and good practices between insurance companies and their customers. While 97 percent of Texans have never filed a property insurance claim lawsuit as a result of damage to their home, they are aware of and are concerned about this growing area of property insurance lawsuit abuse. Most favor reforms to prevent it, found a recent survey by Baselice & Associates.

Mass storm litigation in Texas – and the accompanying cottage industry of storm-chasing lawyers, contractors and other opportunists – originated with Hurricanes Rita (2005) and Ike (2008). Once those lawsuits were resolved, and after good sense legislative changes to protect the coast from abusive suits, these third parties applied their methods to hailstorm litigation. Compared to hurricanes, hail strikes more frequently and impacts almost every area of the state.

In fact, wind and hail have cost the Texas marketplace more in damages in the past 12 years than all other all other natural hazards combined, according to the Texas Department of Insurance (TDI). In 2016, more \$4 billion in home property losses were recorded through September, and insurers paid out more in just the first six months than in any calendar year of the 16 years that TDI has tracked hail losses. Previously, the highest annual amount was in 2015, when insurers paid about \$1.9 billion in hail losses.

The first sign of hailstorm lawsuit abuse emerged after a devastating hailstorm hit Hidalgo County in 2012. Previously, an average of 2 percent of insurance claims became lawsuits, according to Texans for Lawsuit Reform (TLR). But of the 30,000 claims filed following the Hidalgo County hailstorm, 22 percent turned into lawsuits, according to TLR. About 80 percent of those lawsuits were filed after the initial claim was paid by the insurer.

That pattern is one that has been repeated in subsequent hailstorms across Texas – after a homeowner settles a claim with an insurer, a third party suggests the homeowner was underpaid and suggests filing a lawsuit, bypassing the TDI's existing consumer/insurer dispute resolution process. As further encouragement, the homeowner is promised he or she will not have to pay legal fees. In truth, the homeowner and his/her neighbors all will pay for these frivolous lawsuits in the form of higher premiums. The homeowner also isn't told that only a relatively small part of any settlement or award will actually go toward repairing the damaged home – most goes into the pockets of lawyers and others.

Despite the rise in property insurance lawsuits, the number of complaints against insurance companies filed with the state has remained steadily low, proving that these lawsuits are not driven by consumer dissatisfaction, but rather by individuals looking to profit from the system. In 2015, only .06 percent (318) of the more than 465,000 homeowner claims resulted in a justified complaint filed with the TDI. And the Baselice poll found that 84 percent of those who have filed a claim are satisfied with how the insurance company handled the claims process from start to finish.

Texas – with the most severe weather in the nation – already is subject to severe losses and costs. We cannot afford to have abusive lawsuit and claims costs increase the unpredictability of insurance rates or decrease the availability of insurance in our state.