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Flood coverage delays bill

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TALLAHASSEE - Insurance relief is being held back by House Speaker Allan Bense's insistence property insurers get broad protection from flood damage before the next hurricane.

"I think it's very important. If you want to see insurance rates go up, you let it occur the way it's been interpreted currently," Bense said Wednesday.

His refusal to budge imperils a consumer-friendly insurance bill trapped in the Senate since last week.

"Tenacity," said Senate Insurance Chairman Rudy Garcia, struggling Wednesday to keep alive The bill that promises consumers fast payment, in full, on uncontested claims, plain-language policies and disclosures on discounts.

The House seeks to undo a recent court ruling and protect insurers from paying policy limits on hurricane-destroyed homes if any of the damage is caused by water. Homeowners would need to file those claims with their flood insurance.

Without the provision, Bense said premiums could rise "30 percent, 50 percent, you don't know. . . . I think it's the most consumer-oriented issue we can do in the Legislature this year."

Insurers say the cost is less, but still significant.

"We're not talking 20 percent," said State Farm lobbyist Mark Delegal, who said the company's 2004 storm payouts will increase 10 percent if it must pay policy limits to wind-flood victims.

"But 1 percent here and the 2 percent there, it adds up," Delegal said.

The exemption means neither flood nor wind insurance would be required to pay rebuilding costs. That creates a coverage gap that widens when reconstruction bills exceed the value of a home.

Whatever is agreed to, it won't affect are hundreds of 2004 hurricane victims already contesting their unpaid claims in court.

Senate leaders say they are tempted to allow courts to resolve the problem.

"I see the inequity that exists . . . people can't rebuild their structures. On the other side I don't think it's fair to ask an insurance company to pay for something they were unable to underwrite," said Senate President Tom Lee. "I'm not sure how to fix it."

Sen. Charlie Clary, R-Destin, agreed.

"It's being appealed in courts. My general thought is not to try to do any legislation to counteract, and just leave it alone at this point," said Clary, whose own Panhandle constituents are having "a difficult time settling with insurance companies."

The litigation is about to expand. State-run Citizens Property Insurance faces one class action lawsuit on some \$68 million in contested wind-flood claims.

A Pensacola lawyer Wednesday said he would seek class action status for lawsuits in Escambia and Santa Rosa counties against three of Florida's largest private insurers, State Farm, Allstate and USF&G.

State Farm, leading the charge for a political fix, has 264 contested claims, including Santa Rosa County residents Jimmy and Betty Eubanks, lead plaintiffs in one of the proposed class actions.

The company refuses to pay the \$158,500 their destroyed home was insured for. The Gulf Breeze area couple had no flood insurance ? they did not live in a flood zone.

Pensacola lawyer **Samuel Bearman** said those affected by his lawsuits go far beyond the storm victims already in court.

"A lot of people just don't know the insurance companies are not treating them right," he said.

Insurers meanwhile are willing to give up their quest for a legislative fix because of what comes with it.

Hammered out privately by House and Senate insurance chairmen, the brokered bill includes a 30-day deadline to pay claims, 10 percent interest on delayed payments, and an end to the industry practice of withholding payment until repairs are finished.

Insurance lobbyists contend it will cause rates to rise and drive insurers out of Florida. Regulators are skeptical.

"Usually if you see anything the industry doesn't particularly care for in a bill, their reaction is one of two things: They're leaving the market or it's going to increase rates," said insurance commissioner Kevin McCarty.

"I don't think the Legislature wants to put an impossible task on insurance companies. . . . I think there's an expression of frustration by the Legislature that in some cases, the insurance industry did not respond."

More than 57,800 hurricane victims are still waiting for a final insurance check, according to the Office of Insurance Regulation.

Gov. Jeb Bush expressed concern so many homes remain un-repaired, roofs draped in plastic, the next hurricane season 27 days away.

"When you fly into many of our communities, you still see blue tarps," Bush said. "The anxiety starts to rise as we get near the next hurricane season."

Provisions of the bill:

Require regulators to plan for uniform rate territories and standard policies.

Require policies to include plain language, a coverage checklist, available discounts and the dollar amount of storm deductibles.

Require Citizens Property Insurance to set rates based on risk where there is no private competition, and cap rate hikes at 5 percent for one year.

Require Citizens policyholders to buy flood insurance in federally designated flood hazard areas.

Require insurers to share hurricane loss data with researchers creating computer models that could independently calculate rates.

Prohibit insurers from canceling policies until 90 days after repairs.

Allow hurricane deductibles as high as 10 percent.