

State looks at mediation on Ike claims

by Houston-Chronicle

Amid a growing number of conflicts between Texans and their insurance carriers over hurricane damage, state regulators are taking a look at mediation to help solve disputes.

With more than 730,000 claims filed since Hurricane Ike blew through Texas in September, regulators expect the number of complaints to climb. The program would help expedite resolutions for consumers unhappy with their claims offers.

"We think the volume of Hurricane Ike claims may lend itself to this type of process," said Audrey Seldon, head of consumer protection at the Texas Department of Insurance.

In comparison, consumers filed 95,000 claims after Hurricane Rita in 2005 and 50,000 claims so far after Hurricane Dolly hit the South Texas coast earlier this year.

The state is considering mediation programs, in which an independent party would help resolve claims without binding the homeowners or insurers to the decisions. The programs are usually paid for by insurers.

Mediation could be faster than the state's complaint process and also cheaper than an appraisal process, in which the policyholder and the insurer hire separate damage appraisers who review the company's offer and choose a third appraiser to act as an "umpire" and make a binding ruling on any disagreements.

Seldon's agency is studying mediation programs in Florida, California, Louisiana, Mississippi and North Carolina to determine what would work best here, she said.

In other states, the insurer usually pays for the mediation process.

The department has received more than 1,200 complaints since Ike and has been able to get consumers \$6.5 million. Under its complaint process, the department usually presents any evidence of underpayment or other grievance to the insurer, which then repays. But the state can't force the insurance companies to take any actions unless they are violating Texas insurance codes, Seldon said.

"Sometimes you have disputes where the parties don't come to a quick agreement, at which point this mediation process would give us another avenue," she said.

Nearly 3 months later

It might benefit consumers like Claudia Bernal, who is still trying to get her insurer to reimburse damages to some appliances and pay to replace her roof, nearly three months after Ike blew three trees onto her Spring home and more than a month after filing a complaint with the state.

"They haven't really done anything on our behalf," Bernal said, adding that she simply received a copy of an explanation from her insurer that she's also disputing.

The department declined to comment on the complaint, saying it's still open.

Bernal says her insurer wants her to go through the appraisal process, but she worries about its fairness and its expense.

She's trying to save as much money as possible given that she's been turned down for federal assistance and didn't qualify for a Small Business Administration disaster assistance loan because the agency questioned her and her husband's ability to repay.

Plan by January

The state plans to have a proposal ready by January. If there's enough interest from the industry and consumers, the department could pass a rule adopting the program, have insurers sign agreements or wait for lawmakers to create a program in the upcoming legislative session.

If the program is truly optional and doesn't thwart consumers from pursuing other avenues, such as litigation, it could be beneficial to consumers, said Alex Winslow, head of Texas Watch, a consumer group in Austin.

"I'd want to look at the proposal and see how it's handled and be sure it isn't an attempt to make it more difficult to grant co-insurers access to the legal process," Winslow said.

Insurers like idea

Insurers also said the program has potential.

"We would welcome TDI's proposed mediation process if it provides a fair and expedient agreement in settling Hurricane Ike claims," said Mark Hanna, a spokesman for the Insurance Council of Texas, an industry trade group. "Any agreement settled outside a courtroom will simply mean a faster reimbursement for

policyholders."

Copyright © 2008 The Houston Chronicle

State looks at mediation on Ike claims by Houston-Chronicle