

SENATE INSURANCE COMMITTEE FAILS HOMEOWNERS AGAIN

Remember how you felt when you learned your home was destroyed by hurricane Katrina? Empty and lost. Then remember how you felt when your insurance company denied your homeowner's claim? Betrayed and angry.

For homeowner's who returned to nothing but a slab where their home once stood remember very well the day our claims were denied. In my case, along with other homeowners, our claims were denied without an investigation or engineering report conducted from the insurance company. (See State Farm Conduct Exam Report)

After hurricane Camille the courts ruled the insurance company has the "Burden of Proof" that the damage was caused by an excluded cause (Commercial Union vs Byrne). After hurricane Katrina, the courts upheld the 1971 ruling and expanded the opinion stating "the insurance company assumes the burden to prove, by a preponderance of evidence, that the cause of the losses are excluded by the policy." In short this means if the insurance company cannot prove why they denied your claim they have to pay your claim. This could range from a single house fire to a hurricane loss.

The insurance companies appealed to the 5th Circuit Court of Appeals and the MS Supreme Court and the ruling was upheld. They lost again!

In 2007 working with our local legislators we filed a bill to have this court language adopted into law. This would prevent the insurance industry from trying to take the case back to court and get the ruling overturned and provide swifter justice in the future for homeowners who are wrongly denied their homeowner's claim. The result was the House passed the bill every year and in 2012 the vote was 116-3.

However, the bill has died in the Senate Insurance Committee without a vote each year. Despite the support from Lt. Governor Tate Reeves and Insurance Commissioner Mike Chaney, the powerful insurance lobby has denied homeowners a vote. This year I appealed to Chairman Videt Carmichael to allow a vote on the bill, but the committee voted to table the bill. "Table" is maneuver that legislator's use so they do not have to explain their vote to us or the insurance lobbyist.

Every homeowner in the state should be very concerned and disappointed. The fact that the insurance lobby can deny homeowners a vote on legislation that the courts approved, supported by the Lt. Governor and Insurance Commissioner tells you who is running the show on insurance matters. The opposition has argued adopting this legislation would result in higher insurance premiums. However, if that was the case our rates would have increase after the courts ruled. The fact is the insurance companies want to argue the case again with the hope of changing the courts decision. Senator Tindell said the bill doesn't do anything drastic. Rather, it puts into law what courts have already concluded on the issue of the burden of proof. When asked why the law should be made giving the existing rulings on the issue, Tindell said "case law can change with the stroke of the pen at any time."

Other states have adopted this language into law. Texas law states: BURDEN OF PROOF. If you sue to recover under your insurance policy, the insurance company has the burden of proof as to any application of an exclusion in the policy and any exception to or other avoidance of coverage claimed by the insurer.

I may not have the money of the powerful insurance lobby, but I do have the fight. What we need is some leadership from Commissioner Chaney and Tate Reeves to stand up and fight the powerful lobbyist with us. Adopting the court rulings into law (SB2225) would help protect the rights of every homeowner from insurance companies who have a proven track record of not treating us fairly when adjusting our claims. I refuse to let the insurance lobby run the Senate Insurance Committee and will keep going back until the Senate votes with the House to improve our homeowner's rights. Will you join me? All the information you need to know is at www.msbillsofrights.com.

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