

Climate-Related Cats

Hurricanes, tornadoes and mudslides: For insurers, the costs associated with catastrophes are a cause for concern.

Climate-related catastrophes are increasing, as are coverage issues facing insurers. In 2017, we were faced with the highest number of disasters occurring since 2011, according to the National Oceanic and Atmospheric Administration.

Hurricane Harvey caused damage exceeding \$125 billion, followed closely by Irma, which moved up the East Coast and resulted in historic levels of coastal flooding. Hurricane Maria caused massive flooding and mudslides in Puerto Rico. By April 2017, 570 tornadoes were reported, 100 more than average.

Following the ongoing drought in California, in 2018, areas reported almost 400% more rain, causing destructive mudslides. NOAA also reported that the costs associated with these disasters surpassed the previous record of \$214.8 billion, with most of the cost falling on insurers.

Many coverage issues arise from these climate-related catastrophes, including debates over exclusions and causation. Although flooding may be excluded from a homeowners policy, many commercial policies have flood or water endorsements, resulting in large business interruption claims.

And even where a homeowners policy contains a flood exclusion, many states find coverage if there are concurrent causes of damage.

For example, Florida and North Carolina follow the concurrent causation doctrine, which provides that, when two or more causes



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contribute to a loss, the insurer is responsible for the entire claim, as long as one cause is covered.

Texas follows a variation of the doctrine, requiring an allocation between covered and noncovered risks.

California, on the other hand, follows the efficient proximate cause doctrine holding that, in order for there to be coverage, the insured peril must be the “predominating” cause.

Insurers also must consider whether their policy has anti-concurrent causation language, which will exclude an entire loss from coverage where

a property loss is caused by a combination of excluded and covered perils. Some states allow such language, and others do not.

Statutory reforms can also impact claims or claim-related lawsuits. In response to a rise in hailstorm lawsuits, Texas enacted Section 542A of the Texas Insurance Code, which now governs all lawsuits arising out of insurance claims where the damage was caused, either directly or indirectly, by the weather or other “forces of natures.”

In North Carolina, the Mediation of Emergency or Disaster-Related Property Insurance Claims Act provides for an alternative dispute resolution procedure intended to promote effective and timely resolutions of residential property claims caused by an event for which there is a state of disaster declared.

As more people relocate to areas that experience weather-related events at higher occurrences, insurers can increasingly expect to face these issues. It, therefore, becomes even more important that those handling claims or lawsuits are vigilant and stay on top of the ever-changing coverage issues.

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