

November 4, 2010



This is the print preview: [Back to normal view](#) »

Joanne Doroshow

Center for Justice and Democracy

Posted: October 27, 2010 07:03 PM

Here's Really Why Your Insurance Rates Go Up - and Then Don't

Please bookmark this post and come back to it in a year or so. I say this because our collective memory, and especially that of mainstream news organizations, can be pretty short sometimes.

In case you haven't noticed, your liability insurance rates have been fairly stable for a few years now. I'm not talking about health insurance, which is guided by a whole different set of rules. I'm talking about the property/casualty sector, like auto insurance, medical malpractice insurance for doctors, D&O (directors and officers) insurance for businesses, really any kind of liability policy.

Perhaps you recall that in the early part of this decade, doctors were picketing state capitols about their medical malpractice insurance rate increases, some as high as 100 or 200 percent. You may have received letters in the mail explaining that your homeowners insurance was suddenly going up astronomically. If you're any kind of small business, you probably noticed that you were being unfairly price-gouged. And then, the huge increases just stopped.

The insurance industry's explanation for the severe rate hikes came down to just one: lawsuits. This was all the fault of lawyers, jury verdicts and everyday Americans who sue wrongdoers, and whose claims are paid by insurance companies. It was a most convenient excuse for the industry, since convincing people that the legal system was to blame led only to one solution: changing the legal system. This specifically meant cutting off people's legal rights so that insurers could hang onto more of their money. Sadly, lots of states have succumbed to insurer pressure over the years. As a result, the legal rights of just about every reader of this post have been weakened, and in some cases, eliminated.

What insurers didn't say is that insurance pricing is cyclical and that over the last 30 years, rates have spiked up and then stabilized three times. In fact, to buy the industry's explanation, one would have to accept the notion that juries engineered large jury awards in the mid-1970s (the first time rates skyrocketed), then stopped for a decade, then started again in the mid-1980s (the second time this happened), stopped for 17 years, and then started again in 2002. And then they just stopped

again. Of course, such an explanation is ludicrous - and untrue. At no time did claims or payouts spike during any of these periods and it is certainly not happening now.

Here's what's really behind this up and down cycle, and it has nothing whatsoever to do with lawsuits.

When insurance rates are stable as they are now, this is called the "soft market." When rates shoot up, this is called the "hard market." (The fact that the insurance industry is exempt from anti-trust laws allows them to raise rates collectively.) During soft market periods, insurance companies engage in fierce competition for premium dollars to invest. Due to this intense competition, insurers may actually underprice their policies (with premiums growing below inflation) in order to get these premium dollars. That's exactly what is happening now, but don't just take our word for it. Insurance execs around the country are complaining about this. They hate these soft market periods, because the intense free market competition keeps them from raising everyone's insurance premiums. Check out some recent industry quotes on this:

Here's one:

Nick Cortezi, chief executive officer at All Risks, a national specialty insurer based in Hunt Valley, Md., said he was "pessimistic" about the end of the soft market. "We are all competing more aggressively with more capital for a pie that keeps shrinking," he said, explaining why the market is not hardening. "It's going to take outside forces. ... I think a natural disaster, a natural property disaster, could be a causative event that could turn the market."

(In other words, there is way too much competition in the insurance market and we need a huge disastrous hurricane to turn this all around so we can start raising rates again.)

Here's another:

Thomas Phelan, president and CEO of the Injured Workers Insurance Fund (IWIF) [said] "2010 will be as bad as 2009."

That's bad as in "low insurance rates for businesses." He continued,

Phelan, who said much of IWIF's business is tied to construction, doesn't expect things to improve much until next year. "By the second or third quarter of 2011, things should start to go in the right direction," he said.

That's "right direction," as in "the direction that will help us start raising rates again."

Here's another from BestWire (unfortunately, subscription only):

The head of W.R. Berkley Corp. said he sees an end in sight to the current soft market that's affecting most of the industry. "I've always said to people my expectation is that prices will start to go up in the fourth quarter," Chairman and Chief Executive Officer William R. Berkley said in an earnings conference call in which the company announced a slight drop in third-quarter net income to \$94 million from \$98 million. ... "There will be modest price increases beginning in the fourth quarter. We're starting to see positive signs."

(In other words, even though we're making a ton of money right now, we just can't stand it when we can't raise rates on our customers!)

Anybody talking about lawsuits here? How about the impact of so-called "tort reform" laws on insurance rates? The only things these industry insiders seem to be hoping for are major

catastrophes. (Natural disaster? Terrorist attack?) That will give them the excuse they need to start increasing premiums again.

What a business.

Here's what I hope. When insurance rates start going up at some point in the future, remember what insurance executives were saying in 2010. No matter where you live, the flattening of rates has nothing to do with whether lawmakers weakened your civil justice system or kept injured people from suing malpracticing doctors or anyone else, but rather to modulations in the insurance cycle everywhere. Just as liability insurance "crises" (i.e., sudden rate hikes) are driven by this cycle and not by any lawsuit "explosion" as insurance lobbyists and others claim, the "tort reform" remedy that they push is a failed solution. It will fail again.

Follow Joanne Doroshow on Twitter: www.twitter.com/centerjd