Consumer Federation of America

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IN WAKE OF SUPERSTORM SANDY, NEW YORK SHOULD PROTECT CONSUMERS FROM REDUCED OR DENIED CLAIMS, TAKE STEPS TO DEVELOP COMPREHENSIVE HOMEOWNERS INSURANCE REFORM

Consumer Federation of America outlines needed reforms in letter to Governor Cuomo's NYS2100 Commission's Subcommittee on Insurance and Risk Management Reform

Washington D.C. -- In response to Governor Cuomo's request for strategies to ensure that the State of New York is resilient in the face of future natural disasters, the Consumer Federation of America (CFA) called for state regulators to immediately identify coverage gaps that could result in consumer frustration and to adopt policies that clarify coverage and prevent unjustified denial of claims.

"Superstorm Sandy, like other recent catastrophe events, revealed the inadequacies of current homeowner's insurance," said J. Robert Hunter, Director of Insurance at the Consumer Federation of America. "Homeowners clearly do not have sufficient flood insurance in force, hurricane deductible policies are unclear, and anti-concurrent-causation clauses can result in the denial of legitimate wind and fire claims. Replacement costs, which fluctuate upward after a large storm based on the demand for building materials, could exceed what insurers will pay even if the home was fully insured.

CFA also called on the State of New York to take the first steps towards developing a rational, all-risk homeowners' insurance policy that will provide clear and consistent coverage to homeowners seeking to insure against the risk of all types of loss, including losses associated with catastrophic events.

"Insurers are selling peace of mind and financial security and delivering confusing legalese and unfair exclusions. The anguish Sandy victims are experiencing when their claims are denied is a wake-up call" said Amy Bach, Executive Director of United Policyholders, a non-profit voice and information resource for insurance consumers in all 50 states that contributed to CFA's recommendations and is assisting homeowners impacted by Superstorm Sandy.

CFA urged the State of New York to adopt the following changes to protect homeowners impacted by catastrophic events:

- **New York should require that a consumer choose the deductibles based on wind speed.** DFS should disapprove the current, confusing deductibles based on a hurricane designation and

- **New York should disapprove all anti-concurrent-causation clauses.** The ACC clause was intended to limit or even remove the insurer's liability when a covered risk (such as wind or fire) damages a structure at about the same time as an excluded risk (such as flood with no flood insurance in place), regardless of the order of such events. Exercising an ACC clause is profoundly anti-consumer and allows insurance companies to deny legitimate wind and fire-related claims if any damage was caused by flood. This gives insurers a huge incentive to blame all damage on flooding and forces homeowners to fight insurers over damage caused by water resulting from a hurricane.

- **Reform caps on replacement cost**. New York should require insurers to offer different replacement cost caps at the time of sale with the price impact of each option being disclosed clearly to the consumer. In the aftermath of severe weather events, labor and material prices often surge. If a policy includes a specific dollar amount cap on replacement costs, then homeowners will face significant out-of-pocket costs.

- **Require that New York insurers offer an all-risk policy that combines coverage for fire, wind, hurricane, and other catastrophic loss.** The key to an effective and efficient catastrophe insurance market in NY is a solid homeowners' policy that provides the coverage consumers expect, including coverage for catastrophe events whether that catastrophe is a hurricane, storm surge, ice storm or other event.

- **Create public-private partnerships to finance loss mitigation and loss prevention**. Consumers will simply not be able to afford ever-increasing insurance premiums to pay for ever-increasing catastrophe events. The only long-term solution to the problem of catastrophe insurance coveage is to harden structures so less damage results from the storms. The technology to create loss-resistant structures is available. What's missing is the ability of homeowners to finance these loss prevention investments. Insurers should be involved in partnering with homeowners to help finance these improvements with longer-term policies, such as five year policies instead of one-year policies. Public sector funds can be used to leverage insurer and other private sector loss mitigation efforts.

"The current industry approach to managing catastrophe risk is to provide less and less coverage and push more and more exposure and costs onto consumers and taxpayers," said Birny Birnbaum of the Center for Economic Justice. "Insurers could reclaim their traditional role of stewards of safety by managing their risk through loss prevention and loss mitigation instead of exclusions and unfair claim settlement practices."

Consumer Federation of America is an association of nearly 280 non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, education and advocacy.

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