Assured Comment: Florida Homeowners' Market Becoming Uninsurable?

Special legislative session called for the end of May; too late for reinsurers

Florida Governor Ron DeSantis has called for a special legislative session to address the chaotic and rapidly deteriorating state of the Florida Homeowners' (FL HO) market. The session will be held during the last full week in May; too late, we suspect, to assuage the valid concerns of reinsurers who might be wondering if FL HO risks are insurable – at any price.

The proclamation from the Governor calling for the session is an instructive and quick read – it is here. **The Cliff Note version is that the proclamation cites thousands of frivolous lawsuits**, **a runaway tort environment** leading to FL accounting for 9% of open HO claims nationwide, but 79% of open and litigated HO claims, **massive U/W losses** (two years at more than $1 billion each year), **insolvencies**, massive growth at the HO market of "last" resort (Citizens Property Insurance), **rapidly rising HO costs and shrinking capacity**. The order doesn't mention the possible downgrade of "a number of companies" as dominant FL HO rater Demotech wrote in its letter to the Governor back in March. But we suspect the downward spiral of the publicly traded parent of FedNat Insurance Company (NASDAQ: FNHC) following its April downgrade to "S" (Substantial) from "A" (Exceptional) grabbed the attention of all legislators in the state. In the week following its downgrade the company has become a penny-stock having issued a 'going concern warning' citing, among other business challenges, its ability to secure adequate reinsurance at the upcoming renewals.

Coincidentally, **we attended the Demotech/IRUA (Intermediaries & Reinsurance U/W Assoc) conference held in Florida last week**. Its kickoff coincided with the Governor's call for the special session and many attendees were steeped in FL HO experience. Now, up to this point everything we've written can be considered 'news' and we try to leave the reporting of news to the journalists. **Our purpose in penning this note is to share: 1) The depth of this market disarray is among the worst we've seen covering this industry for many decades**. About 20 years ago we had the privilege of sitting with the CEO of a prominent writer of Medical Malpractice who, days before announcing his company's exit from the market, described it as being 'uninsurable'. We heard similar commentary at this conference. **2) We suspect a real estate and political crisis in the state of FL commensurate with the aftermath of Hurricanes Andrew in 1992 and the active 2004/2005 hurricane seasons is at the doorstep of all FL HO stakeholders**. If a substantial hurricane makes landfall in FL this season the problems could be worse, though we suppose the state could leverage its public finance mechanisms (e.g., a bond issuance or tapping the FHCF in creative ways) to make homeowner's whole – it is an election year for the FL Governor, after all.

Participants at the conference suggested the most important fix from the upcoming session would be to amend/stop the state's 1-way attorney fee statute. **The only sure way to ensure progress, as we see it, is for reinsurers to exercise their rights to pull capacity from the state**. The capacity shortfall, rating downgrades, and flood of business into Citizens that would follow could not be ignored or papered over with tweaks to the current property insurance statues fueling the runaway litigation (e.g., rules governing AOBs, the 1-way attorney fees, or the statute of limitations, among others).

We're often asked what will stop social inflation. Our answer: Look to developments unfolding in Florida where citizens can increasingly and tangibly feel the adverse consequences of decisions to engage the services of contractors and lawyers promising to force their insurer to pay for a new roof; irrespective of whether the old one was legitimately damaged in a 'sudden and accidental' way.