

Texas Versus New Jersey

By Stephanie K. Jones

Is Texas the next New Jersey? That was one of the many questions posed about the state by Robert Hartwig, chief economist for the Insurance Information Institute, at the 40th Annual Joe Vincent Management Seminar held by the Independent Insurance Agents of Texas (IIAT) in early February.

Hartwig, who addressed many issues concerning the insurance industry, both nationwide and in Texas, began his talk by stating that the industry as a whole is under tremendous pressure right now to restore profitability. That must occur, Hartwig said, by improving both underwriting performance and pricing. In his estimation, the hard market not only will continue—but it should stay in place—in order for the industry to achieve profitability.

“The economics of the insurance industry today suggests that the hard market should continue,” Hartwig said, “not just for this year but into next year. ... If it doesn't, it'll end badly for some insurers. The combined ratio remains unacceptably high, our reserve issues are still out there and investment income shows no sign of recovering any time soon.”

As for the Texas-New Jersey connection, Hartwig noted that the current Texas legislative session is dangerously vulnerable to ending up in the same regulatory quagmire that plagues New Jersey. Over 100 insurance-related bills have been filed so far in Texas, and according to Hartwig, many of them could affect the industry adversely.

“I just heard about this HB 600,” he said, “the bill from hell, or you might call it the bill from New Jersey. Very reminiscent of what goes on in New Jersey. New Jersey, in fact, for 25 years was the undisputed poster child for insurance regulation. The deluge

of bills that you've had this year threatens to turn Texas into the next New Jersey. And in fact, with many of the provisions of HB 600, disaster is absolutely guaranteed. There's a been there, done that quality about it. Many of the things in there have been done, tested, tried and failed in New Jersey.

“A good example is the rate rollback ... (HB 600) would require a rate rollback to 1/1/2001 rates. Now New Jersey did this a couple of years ago. And in fact it was that event, that event in particular, that led to a number of major companies announcing their withdrawal from that market.”

Another big question on Hartwig's mind concerning Texas was: “Look at the bill of goods that Texas has to offer right now, and ask yourself, if you were an insurer sitting out there with ... capital, would you come into this market? What does Texas have to offer?”

He said Texas would be a pretty good market for insurers, “were it not for what's going on. Competitive, large, everything an insurer would want.” However, he went on to point out the

many incentives insurers have to avoid the state. “(Texas) led the nation in natural disaster losses the last three years in a row,” Hartwig said. “The state is a hurricane, tornado and hail alley. It's ground zero for the nation's mold debacle. It's among the country's worst in terms of profitability in recent years. The potential for rate rollbacks, withdrawal moratoria, prior approval regulation, bans on insurance scoring, occasionally hostile legislature; home to three of the nation's judicial hell holes; leader in monster jury awards; a civil justice voted one of the worst in the U.S.—come one, come all!”

Stating that “the Texas civil justice system is really ruled by the theory of jackpot justice,” Hartwig urged agents “to work hard to help press your local legislators in the U.S. Congress to get some kind of tort reform, some kind of asbestos reform, some kind of reform for the medical malpractice system.”

Hartwig asserted that “U.S. legal system is out of control,” adding, “the average jury award in most major categories, which is product liability or med mal or premises liability, has doubled or tripled in recent years. ... The cost of the U.S. tort system is about \$200 billion today, or about

two percent of GDP. By the way, that works out to more than \$600 per man, woman and child in the United States. And we have, for all the money spent, developed the most inefficient tort system the world has ever known. ... Only about 20

percent of every tort dollar actually makes it to the actual plaintiff in terms of award for economic loss.”

The U.S. has no shortage of “judicial hell holes,” Hartwig said, noting that Texas has three. “That puts you in a tie with California and three areas in Mississippi's 22nd judicial district. And this is all the more surprising, because Texas had tort reform back in the 1990s. Yet it is still viewed as one of the states with one of the biggest problems with tort issues. In fact in terms of the states with the most top ten jury awards, (if) we go back '95 to 2002, (and) look at the top ten awards, Texas comes in third behind New York (and) California.

“Business leaders rank Texas near the bottom of the liability system,” he continued. “So there are major issues for tort reform that we need to handle here in Texas, and of course, nationally. And in fact, Texas ranks 46th out of 50 in terms of how business leaders—this is ranked by the U.S. Chamber of Commerce—perceive the tort system or the liability system.”

Not all of Hartwig's news was bad. He said despite the fact that insurers are accused of gouging consumers by raising prices drastically, the price of homeowners insurance is actually becoming more affordable, relative to the price of housing and a family's earning power. “If you look at the cost of homeowners insurance ... relative to the median family of four's income, what you see is that it's been flat in the case of homeowners insurance,” Hartwig said. “Homeowners insurance has been no more of a burden on the average income of the typical family today as it was nearly a decade ago.

“The same home selling last year sold for \$16,000 more than it sold for the year before,” Hartwig added. “The homeowners policy to insure that home cost you \$41 more. Put things in perspective, where should the focus be?” ■

