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HURRICANE IKE

State looking into roof damage policy

State regulators are investigating how the Texas Windstorm Insurance Association handles certain roof claims related to Hurricane Ike.

At issue is whether unsealed asphalt shingles are considered damaged, and if so, whether Ike was the cause.

The windstorm association doesn't always think so. But some homeowners say they have valid claims because Hurricane Ike lifted the shingles on their roofs, breaking the seal that binds shingles to each other.

The Texas Department of Insurance notes that although the association claims such shingles are not necessarily damaged, unsealed shingles would not pass a home inspection that's required to obtain coverage from the association and to keep coverage if a home is repaired after a storm.

“Because we see that discrepancy, and we think that when a homeowner's shingles have been adhered, that does constitute damage, we're pursuing an investigation,” said Catherine Reyer, an associate commissioner of enforcement at the department.

The insurance department began investigating in late July and has received 23 complaints against TWIA on the issue.

Jane Chance, who says TWIA didn't give her enough to repair the roof of her Galveston home, charged two repairs that totaled \$20,000 on credit cards.

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She worried that if she didn't replace her entire roof — something TWIA considered unnecessary — she wouldn't pass the inspection required to keep her policy. She also needed the policy to abide by the terms of her mortgage.

“I figured it was better to go into debt than hang on to this forlorn hope that TWIA would finally become reasonable,” said Chance, who has since filed a lawsuit.

Jim Oliver, executive director of the windstorm association, declined to comment on the litigation but noted that the insurer sent Chance about \$3,000, before accounting for her deductible, for roof repairs and that adjusters saw no further damage.

Lifted shingles may not perform as manufacturers intended them to, but they wouldn't be means for cancellation, he said.

“If somebody has lifted shingles, we're not going to non-renew them,” Oliver said, adding that homeowners only have to pass inspections when first applying for coverage or making major repairs. “If we didn't see damage, there's no repair required, and so there's no need for an inspection.”

Homeowners who have yet to make repairs, especially those in litigation, won't be canceled, he added.

Also, new shingles can take days — or weeks in the winter — to adhere, he said, suggesting that state inspectors don't always check for seals.

The association issued two staff memos in the wake of Ike, noting that it won't consider lifted shingles damage unless they're blown off or blown back with visible damages, such as a crease.

“Just because a roofer says the roof needs to be replaced, that does not mean we figure to replace it,” one memo reads.

That's in part because home-owners must prove Ike's winds broke the seals, Oliver said.

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“Our problem is we don’t know why it’s unsealed,” he said. “It can be unsealed from the day they installed it; it could be nailed incorrectly; or it could have become unsealed because of the years it’s been on the roof.”

But Alex Winslow, head of consumer group Texas Watch, argues it’s TWIA’s responsibility to prove pre-existing damage if it can’t tell when the seals broke.

“By Mr. Oliver’s logic, all a company has to do to avoid paying legitimate claims is to deny every claim and force every policyholder to prove it should be paid,” Winslow said.

Attorney Tony Buzbee filed a lawsuit in Galveston County earlier this month seeking clarity on whether shingle lift is damage.

He represents hundreds of homeowners and is seeking class-action status, he said.

Lifted shingles left unsealed could bring more damage later, especially if water gets under them and leads to a roof leak, he said.

Oliver insists future damage caused by wind-driven rain would be covered, but Buzbee questions it.

“If there’s a leak, say, six months from now, what do you think the adjuster is going to say?” Buzbee said. “Won’t that be their position two years from now, when the roof is leaking? They’re going to say you have a deteriorated roof.”

Oliver and the insurance department said they were in “heavy discussions” over the matter and hope to reach a resolution soon.

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