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Congress Could Disrupt the Relative Calm in Crop Insurance

By Nicholas R. Maxwell

Farmers and other agribusinesses holding crop insurance policies have long been relatively sheltered from coverage disputes by federal subsidies that cover as much as 70% of farmers' premiums. At present, these valuable subsidies mean that crop insurers stand to gain by keeping policyholders happy, as opposed to strategically denying large claims and risking loss of customers. Based in large part on this dynamic, crop insurance companies generally pay claims more readily than insurance companies selling other types of coverage.

Nonetheless, crop insurance policyholders should not be complacent. Congress could alter the subsidies at any time — and a change in federal subsidies could lead to a significant rise in denied claims.

At present there is significant pressure on Congress, including from the Obama administration, to pare back crop insurance subsidies. If subsidies are reduced, however, crop insurers would face pressure to lower premiums from farmers suddenly faced with a tighter insurance budget. If premiums drop even slightly, the insurance companies may be incentivized to deny more claims to hold their bottom line. As a result, the crop insurance market would grow significantly more competitive.

Thus, while the relationship between farmers and crop insurance companies is largely copacetic at present, it is in the best interests of farmers and other agricultural companies to understand what could happen if reduced subsidies sour that relationship. Many crop insurance companies are large, nationwide entities whose claims handlers are accustomed to strategically denying claims made under other types of coverage. For example, among the 17 federally approved crop insurers (and reinsurers) for 2016 are ACE American Insurance Company and Farmers Mutual, both among the 20 biggest commercial insurance companies in the United States.

Moreover, independent of the subsidies issue, litigation over crop insurance claims is far from unheard-of. In one recent decision, a federal district judge in Iowa rejected a soybean farming venture's allegation that his crop insurer had adjusted a 5,000-acre hail damage claim in violation of his crop policy. *Bruhn Farms J.V. v. Fireman's Fund Ins. Co.*, 2015 U.S. Dist. LEXIS 60320 (N.D. Iowa May 8, 2015). Contrary to the farmer's contention, the court held that the insurance company followed the appropriate procedure in adjusting the value of this factually complex loss. The court entered summary judgment, and the farming venture's appeal is pending before the U.S.

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Court of Appeals for the Eighth Circuit. Crop policies have also yielded high stakes litigation in the context of disputes over named insured status,[1] loss adjustment methodology,[2] enforceability of arbitration clauses,[3] and insurable interest determinations.[4]

Despite the atypical nature of the crop insurance market, farmers and other agribusinesses must recognize the present threat of litigation and be prepared for it. Understanding the nuances of crop insurance coverage will only become more important if the subsidies currently provided by the federal government give way to shifting legislative tides.

ENDNOTES

[1] *Buchholz v. Rural Cmty. Ins. Co.*, 402 F. Supp. 2d 988 (W.D. Wis. 2005).

[2] *Meyer v. Conlon*, 162 F.3d 1264 (10th Cir. 1998).

[3] *Hobbs v. IGF Ins. Co.*, 834 So. 2d 1069 (La. App. 3 Cir. 2002).

[4] *Scruggs Farm Nursery v. Farmers Crop Ins. Alliance, Inc.*, 2012 U.S. Dist. LEXIS 53410 (E.D. Tenn. Apr. 13, 2012).

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