ART COLUMN FOR MARCH

ART could be the next FarmAid

You probably wouldn't recognize me in my bib overalls and clod-kickers as I take the field to examine the state of crop insurance among the nation's farmers. And how, you may ask, does that subject crop up in a column about the ARTside? Crop insurance, of course, is a government insurance program operated by the U.S. Department of Agriculture through a short list of private insurance companies.

Oh, wait a minute! I think I've heard this idea recently. Conceptually, doesn't that program resemble a kind of "exchange" designed by the government to assure broad coverage? That's what the healthcare reformers have been preaching, and so far Congress hasn't completely quaffed that cup of Kool-Aid.

But, back to crop insurance. The reason it crossed my mind as an ART topic is that recently the USDA shut off an important element of coverage to farmers in many parts of the country. Simply put, farmers in a broad swath of the South, Great Plains and eastern U.S. will lose their county-based plans that augmented basic 70 percent risk protection into the 80 to 90 percent range. That sounds like it could be a big hit for a corn or cotton farmer whose crop is wiped out by disastrous weather.

Now, here's a disclaimer: there are several underlying technicalities in this situation that I can't fully explain in my allotted space. So, yes, I'm simplifying but trying not to distort.

Let me just draw a parallel to another group of businesses, commercial property owners whose facilities lie within the broad Gulf and Eastern coastal swaths sometimes visited by disastrous weather of another sort: hurricanes. During a recent year's spate of hurricanes several P&C insurance companies withdrew from coastal U.S. states and others made coverage exorbitantly expensive.

That sparked an idea among the self-insurance and related ART fields: why not rewrite the rules governing risk retention groups to allow them to add commercial property coverage for their members?

For more than 20 years RRGs have done a good job of insuring their members against third-party liabilities such as product failures, transportation liabilities and medical malpractice. Many RRGs have found the underwriting sweet spot to be able to reduce both claims and premiums.

So, a few years ago SIIA began to jockey for position with members of Congress to modernize the Liability Risk Retention Act that allowed members of trade groups or professions to organize themselves across state lines in federally-enabled RRGs.

Expanding coverage to commercial property risks hasn't been the only reason to modernize the LRRA. RRGs also need federal protection from various forms of harassment by state regulators, some of whom refuse to acknowledge their federal preemption.

Legislation to improve the LRRA has been slow to gain momentum. Bills have been introduced, committees have held hearings, but a new law hasn't achieved liftoff speed. This year could be different, as SIIA's lobbying office in Washington, D.C. has learned that new RRG bills will be introduced in both the House and Senate.

Now, let's connect the dots with crop insurance. A crop is just another form of property, right? If the LRRA were modernized to allow first-party coverage in addition to present third-party coverage, that could include commercial property protection from hurricane damage as well as crop protection from a hailstorm or tornado.

This could actually be a boon to both farmers and the government, if a no-public-cost option were to emerge. Risk retention groups don't take a dime of public money, are not subsidized by a public agency but pay their licensing and premium taxes to their state of domicile. That seems like a good place to look if you want to begin cutting public costs.

We understand that the problem of local crop insurance is that county-by-county yield and risk data is slow to accumulate in some areas of the country, leaving plan administrators with cloudy underwriting tools.

That seems to be a good argument for broader coverage that would spread risk over a wider geographic area – much the same as the proposed hurricane coverage for commercial property owners. Hurricanes and catastrophic hailstorms don't hit everywhere at once, and a well-underwritten self-insurance pool could handle them.

Farmers' risk retention groups could be formed to provide the excess layer of coverage above basic USDA-supported crop insurance. It's likely that individual farmers' total premiums could decline while they could maintain coverage of catastrophic risks.

And think of the political popularity of such a program! It seems that farmers have more ears of Congress than corn – an admittedly clumsy analogy, but you get the idea. If LRRA modernization needs a kickstart on Capitol Hill, this could be it.

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