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Key Provisions of 2019 Assignment of Benefits (AOB) Reform

[HB 7065](#) (now Florida Law Chapter [627.7152](#)) addresses the explosion of property insurance AOB lawsuits over the past decade – up 900% from 2008-2018 and up 8,000% when you include automobile glass AOB suits. It seeks to reduce the incentives fueling litigation and the “racket” as Governor DeSantis described it, that AOBs have become among contractors and trial lawyers.

The bill revises the current one-way attorney fee system which incentivizes lawsuits and institutes a new formula, based on the disputed amount: the difference between the assignee’s presuit settlement demand and the insurer’s pre-suit settlement offer. If the prevailing judgment is:

- Less than 25% of the disputed amount, then the insurer is entitled to reasonable attorney fees;
- At least 25% but less than 50% of the disputed amount, no party is entitled to an award of fees;
- At least 50% of the disputed amount, the assignee vendor is entitled to reasonable attorney fees.

The bill also establishes rights and responsibilities among the various parties. If the insurance company fails either to inspect the property or to provide written or verbal authorization for repairs within seven calendar days after the first notice of loss, the insurer waives its right to an award of attorney fees, except for circumstances beyond its control.

The formula does not apply to lawsuits filed by policyholders, who would still enjoy the protections of the one-way attorney fees under [627.428 F.S.](#)

Under the passed bill, an AOB must also provide the following:

- ✓ Policyholder can rescind the AOB within 14 days for any reason without penalty but must pay for work performed;
- ✓ Policyholder can rescind the AOB within 30 days if work has not commenced within 30 days of stated start date;
- ✓ Clear notice of consumer rights and policyholder responsibilities involved in signing an AOB;
- ✓ Policyholder held harmless where the vendor is prohibited from charging any “fees”, excepting policy deductible;
- ✓ Within 3 business days of the AOB execution, the vendor must provide the AOB to the insurance company;
- ✓ Contain a written, itemized, per-unit cost estimate of services;
- ✓ Work performed must conform with current industry standards;
- ✓ Vendor must “stand in the shoes” of the policyholder, including filing proof of loss, producing records, and submitting to examinations under oath prior to filing suit;
- ✓ Insurer must respond to the vendor’s notice within 10 days; and
- ✓ Emergency services would be limited to \$3,000 or 1% of the Coverage A policy limit.

The bill also allows an insurer to offer a policy prohibiting assignment in an effort to lower policy premiums. It also requires state-run Citizens Property Insurance rates for 2019 to reflect projected savings from this bill.

Under the bill, the Florida Office of Insurance Regulation (OIR) is required to conduct a data call with insurers to report specified data on claims paid in the prior year under AOBs by January 30, 2022, and each year afterward.

HB 7065 became effective July 1, 2019. However, the revised one-way attorney fees section became effective on May 24, 2019 after the Governor signed [HB 337](#) into law.