

Bill Watch, March 16, 2020

Recap of Week 9 & Preview of Week 10 of Session

The Florida House and Senate adjourned just before midnight Friday, agreeing to extend the 2020 legislative session to this Friday night. Only the budget itself and related implementing and conforming bills were left to be considered. By late Saturday afternoon the appropriations chairs had worked out the \$93.2 billion budget for next fiscal year, up from the current year budget of about \$91 billion.

So there won't be any substantive happenings this week since all eyes are on the primary elections tomorrow. Legislators will come back on Thursday for the day to vote on the budget and then head home until committee meetings crank up again most likely in early December 2020 for the March 2021 legislative session.

You will note below where we wrote a lot more "DID NOT PASS" versus "PASSED." And the DID NOT PASS entries equate to INSURANCE RATE INCREASES! So many elected officials we talked to just don't believe there's a problem, saying our team was over reacting to Florida's insane litigation arena and the need for Catastrophe Fund Reform. We obviously didn't scream loud enough because the well-intentioned bills by some seasoned and really smart legislators did not get any traction, mostly failing in the Senate.

Champions like the Tampa Bay area's Rep. Mike Beltran and Senator Jeff Brandes stood up every day and said that it was just not right to have judges pay plaintiff attorneys hundreds of thousands of dollars on the backs of Floridians and the cash they shell out for insurance premiums. Warriors like Sen. Keith Perry from Gainesville and Rep. Tom Leek from Jacksonville did their level best to push through reforms that would alleviate what those of us on the inside see every day, with the new normal being 15 to 20 lawsuits a day for some insurance companies from litigation factories, fueled by some unscrupulous contractors who want to replace a roof or some drywall!

Our resolve, however, is unfazed. We all know the "dirty dozen" or so law firms that Citizens leadership identified several years ago who are fueling the litigation explosion and the construction and roofing companies who canvass neighborhoods in search of new work that will turn into an unworthy insurance claim. (We can direct you to the Citizens' website to secure the list.) It's up to us to turn the tide since our legislators failed us this year. I am happy to discuss with you how we can work together to restore common sense to the insurance market and work with reasonable people who want to see change.

PASSED bills require the Governor's signature to become law. Here is a list of the legislative bills we've been following in this 60-day+ session (you can click the link to go directly to the bill). Commentary from this past week within each bill are noted in **red font**:

Bad Faith Reform – DID NOT PASS – The 2020 session was not the session for any changes to Florida's bad faith laws. In hearing after hearing, the legislature heard stories of Florida's abusive lawsuit environment driving insurance rate increases to no avail. The House worked diligently on sending some reasonable bad faith reforms to their Senate counterparts where the bills died with little to no discussion. As one political observer shared with me, rates will need to soar and legislators' phones will need to ring before changes are made!

When Senator Jeff Brandes (R-Pinellas) originally filed this bill, he drew the line in the sand on the Senate side, saying any PIP repeal needs to address bad faith, otherwise, litigation will run rampant. His bad faith reform bill [SB 924](#) never received the support necessary to be heard by the Senate Banking and Insurance Committee, nor was there a House companion bill. Its amendment addressing bad faith in

auto claims also spelled the demise of the Senate's PIP repeal bill this session before the same committee. Senator Brandes' barely four-page bill required that policyholders and claimants in third-party bad faith actions against insurance companies must prove that the company acted with reckless disregard. The bill also limited an insurance company's liability to third-party claimants under certain circumstances, if it files an interpleader action within a certain time period.

Many of you will recall that on February 11, Senator Brandes filed an amendment to his bill, laying out precise provisions on third-party bad faith against automobile insurers. It's the same amendment that Senator Lee had filed, apparently under protest, onto his (Sen. Lee's) own PIP bill that same day with the identical language filed to another of Sen. Brandes' bills. At the end of the day, the vehement disagreement between Senator Brandes and Senator Lee was never resolved and there was no further movement or discussion about this bill.

Contingency Fee Multiplier/1st Party Insurance Lawsuits – DID NOT PASS – [SB 914](#) by Senator Jeff Brandes (R-Pinellas) was designed to do away with enhanced attorney fees that came into being under a [2017 Florida Supreme Court decision](#). Courts have used the traditional Lodestar method for calculating attorney fees, where the court multiplies a reasonable hourly rate by a reasonable number of hours expended. But the Supreme Court decision noted that insurance claims are especially complex cases and allowed the use of a contingency risk multiplier to double and sometimes triple plaintiff attorney fee awards. The House version of the bill, [HB 7071](#) filed by the Judiciary Committee and Rep. Mike Beltran (R-Lithia) and Rep. Anthony Sabatini (R-Howey-in-the-Hills) mirrored the Senate bill and passed the House and was awaiting a Senate debate which never happened. As with the bad faith bill, the Senate's leadership did not take a leadership role this year in stemming the anticipated rate increases that will occur because of the threat of the fee multiplier.

Rep. Mike Beltran of the Tampa Bay Area very calmly stood on the House floor for two days and vigorously defended the bill and its common sense approach and we look forward to his leadership in the next session.

Omnibus Insurance Bills – DID NOT PASS – [SB 1334](#) by Sen. Jeff Brandes and [HB 359](#) by Rep. David Santiago (R-Deltona) covered several topics. The Senate version attempted to re-balance Florida's out of control litigation environment. Suffice to say, nothing will be enacted by the 2020 Legislature to stem the litigation explosion in our state or do one thing to stop the tremendous rate increases that will be implemented in the next 18-24 months.

Litigation Financing Consumer Protection – DID NOT PASS --The House Civil Justice Committee explored creating a regulatory framework for litigation financiers who provide capital to firms who take cases on contingency, similar to a "factoring" company that buys receivables and pays an upfront, discounted fee for the right to assume the receivable at full value. A workshop led to the release of [HB 7041](#) by Rep. Tom Leek (R-Ormond Beach) which passed all three of its three committee hearings but was never heard by the full House and the Senate, who did not have any appetite for the topic, not scheduling a hearing for [SB 1828](#) by Senate Banking and Insurance Chairman Doug Broxson. The first page of the [latest bill analysis](#) has a good summary of its latest provisions.

Damages – DID NOT PASS -- [SB 1668](#) / [HB 9](#) required that in personal injury and wrongful death actions to recover medical damages, the jury must only hear evidence of medical expenses based on the usual and customary amounts actually received by medical providers. This ensures the jury does not incorrectly rely on the amount billed by the medical provider to calculate damages. The American Tort Reform Foundation's annual report places Florida on its "Watch List," indicating that it considers Florida to have a history of "abusive litigation or troubling developments." The report's summary acknowledges, however, that "Florida took great strides toward improving its legal climate in 2019." These bills, too, did not make it across the finish line. Not reforming Florida's litigation environment only serves to harm consumers who pay for attorney fee awards over and over again.

In past meetings, William Large of the Florida Justice Reform Institute, delivered powerful presentations about this bill, discussing in intimate detail before the Commerce Committee about how lawyers and their favorite physicians game the system. You can find his testimony [here](#) and forwarding to the 39-minute mark in the video. The Senate bill died.

Public Records/Records of Insurers/Department of Financial Services – PASSED – Consumers' personal financial and health information, certain underwriting files, insurer personnel and payroll records, and consumer claim files that are made or received by the Department of Financial Services will be exempt from public records law under [SB 1188](#), by Senator Ben Albritton (R-Bartow) and [HB 1409](#) by Rep. Michael Grant. The bill is a necessary consumer protection and will keep consumers' confidential information away from over-zealous attorneys seeking prospective clients.

Consumer Protection – DID NOT PASS -- [HB 1137](#) / [SB 1492](#) prohibited certain charges for removal of security freeze; prohibited unlicensed activity by adjusting firms & bail bond agents; provided administrative & criminal penalties; revised actions against certain license, appointment, & application of insurance representatives; revised status, notice, & payment requirements for claims; revised classes of insurance subject to disclosure requirement before eligible for export under Surplus Lines Law; prohibited certain writing of industrial life insurance policies; revised Homeowner Claims Bill of Rights; removed certain deductible obligation of the Florida Insurance Guaranty Association; and revised unclaimed property recovery agreements & purchase agreements. Please see the staff analysis for each bill to review the specific contents of each bill.

Insurance Claims Data – PASSED – [SB 292](#) by Senator Doug Broxson (R-Pensacola), who chairs the Banking and Insurance Committee, and [HB 269](#) by Rep. Daniel Perez (R-Miami) addresses disclosure of, and defines a “loss run statement” as a report relating to risks maintained by an insurer which contains the history of claims occurring during a policy term. The bill requires surplus and admitted carriers to provide a statement to a policyholder at no charge upon request.

Insurance Guaranty Associations – PASSED – Essentially a “Condo Parity Bill”, [HB 529](#) by Rep. Jennifer Webb (D-St. Petersburg) would provide an increase from \$100,000 to \$200,000 per unit as the payout to condominium and homeowners associations. The Guaranty Association protects a traditional single-family dwelling for an up to \$300,000 loss for the dwelling should the insurance company go bankrupt. The associations in favor of this year's legislation argued that a total loss where a condo building is leveled would cost substantially more than \$100,000 “per door” to rebuild and that the payout hasn't been increased in over 30 years. This has been a point of conversation for many years.

The bill also increases the funding available to FIGA through emergency assessments levied against insurance companies. The bill authorizes assessments up to 4% of a carrier's net written premiums in this state in any single calendar year, an increase from the current 2% cap.

Another bill that PASSED was [HB 329](#) (also titled “Insurance Guaranty Associations”) by Rep. David Smith (R-Winter Springs) and [SB 540](#) by Sen. Rader (D-Boca Raton). This bill tweaks the major FIGA reform of several years ago, changing assessment calculations for both homeowners and workers compensation guaranty funds. The bill clarifies the method that FIGA assessments are collected and remitted. Remittance would be quarterly, instead of the monthly remittance passed in the 2016 changes to the law. The bill also allows out of state adjusters operating under a licensed FIGA adjuster to adjust claims.

Disposition of Insurance Proceeds – DID NOT PASS – [SB 1408](#) by Sen. Montford (D-Leon County) and [HB 999](#) by Rep. Chip LaMarca (R-Broward County) were designed to ensure that insurance claim proceeds were disbursed to claimants in accordance with Fannie Mae and Freddie Mac guidelines for certain mortgages.

Catchall Insurance Bills – PASSED – [SB 1606](#) by Senator Keith Perry (R-Gainesville) and [HB 895](#) by Rep. David Santiago (R-Deltona) was laid on the table (meaning that its contents were discarded as it

had some meaningful tort reform measures in it, but the Senate refused to consider those). You can read about HB 895 in our previous week's [newsletter](#). SB 1606 passed with the following provisions in addition to a completely new section of law enacted for travel insurance:

- **Civil Remedy Notices (CRNs)** – Section 4 requires civil remedy notices to be sent to an insurance company by e-mail and Section 7 of the bill requires the insurance company to file with the Department of Financial Services the name and the e-mail address of the person to whom CRNs are to be sent. That provision of the bill is effective July 1, 2020
- **Loss Assessment Coverage for Condo policies** – Section 12 makes it clear that the amount of loss assessment coverage available to an insured is only the amount of coverage that was in effect one day prior to the occurrence which gave rise to the assessment, regardless of the date of the assessment. This section of the bill is effective July 1, 2020.
- **Rate filings** – Section 9 extends the 90 day period for the OIR to review a filing if the 90 day period ends on a weekend or a holiday. The time for review is extended to the conclusion of the next business day following the weekend or holiday. This section of the bill is effective on July 1, 2020.
- **Industry Data** – Sections 5 and 6 allow the OIR to publish aggregate data on the insurance industry which includes data that has been provided as a trade secret provided the aggregate data cannot “be individually extrapolated” to reveal the information submitted as a trade secret. These sections of the bill are effective on July 1, 2020.

Financial Services – DID NOT PASS – The original version of [SB 1404](#) covered routine insurance fraud oversight and licensure rules but took on new attraction and importance when its sponsor, Senator Keith Perry (R-Gainesville), introduced an amendment that changed the statute of limitations for filing initial catastrophe claims from 3 years to 2 years. Last week's newsletter recommend that you watch the debate beginning at the 3:20:00 mark in the [video recording](#) of the meeting. There was concern among several members about sending the bill with that provision to the House and whether it would be palatable and it was not.

Motor Vehicle Insurance (PIP) – DID NOT PASS --This was the perennial effort to do away with Personal Injury Protection (PIP) coverage under Florida's No-Fault insurance law and replace it with bodily injury (BI) liability coverage. Similar bills failed last session. Senator Tom Lee (R-Brandon) returned this session with [SB 378](#) which previously passed out of the Senate Infrastructure and Security Committee, which he chairs, but without Bad Faith provisions, which concern many. The prevailing opinion is that should PIP go away and be replaced with mandatory Bodily Injury Liability coverage, every auto accident will have a resulting lawsuit which would increase bad faith suits, often with little justification. There is a great staff analysis of this bill that is worth the read should our audience want to learn more. You can [read it here](#).

So the showdown/stalemate continues.

Rep. Grall – who is an attorney by occupation - has said that any bad faith changes would make the proposal “more complicated than it needs to be.” She’s been quoted in news reports as saying she remains open to adding bad faith language to her House version ([HB 771](#)) but questioned if there is a “landing spot” for such a provision. At the House Commerce Committee meeting in late February, she was quoted as saying the bill represented tort reform, saying it would eliminate at least 25% of litigated cases in the state.

There was discussion that although auto insurance rates could initially go down, because of reduced PIP fraud, that rates would eventually go up. This was confirmed by the Office of Insurance Regulation staff person, who told committee members that “if you were to repeal PIP, rates eventually would go up.”

Rep. Grall's bill would replace PIP with mandatory Bodily Injury coverage. It would also require insurance companies offer MedPay (medical payments coverage) that would help motorists pay medical bills from accident injuries. It got its initial hearing in early February before the Insurance and Banking Subcommittee. There, Rep. Grall called the current PIP system "broken" and an added expense on consumers' auto insurance bills. She said eliminating PIP would result in 8%-9% savings. Rep. Byron Donalds (R-Naples) noted a problem with the current auto insurance system in Florida, where some motorists just carry PIP as bare bones coverage, but that it doesn't pay for actual accident damages.

(See [LMA Backgrounder: Personal Injury Protection](#) for more details on the history of PIP reform and the failed 2018 bills, data, and past committee and stakeholder discussions.)

Motorist Fines and Fees – DID NOT PASS – Noting that there are almost 2 million people in the state of Florida driving daily on suspended licenses "because they don't have the ability to pay the fines and fees in one lump sum," Senator Tom Wright, (R-Volusia) sponsored [SB 1328](#). The bill would have required a uniform payment system in all 67 counties and allow those motorists to pay fines and fees by making partial payments or by through community service. A comparable House bill, [HB 903](#) by Rep. Byron Donalds (R-Naples) and Rep. Rene Plasencia (R-Orlando) never received a hearing before the full House. (Another comparable House bill, [HB 6083](#) by Rep. Anthony Rodriguez (R-Miami) and Rep. Blaise Ingoglia (R-Spring Hill) didn't make it beyond its first committee.)

Credit for Reinsurance – DID NOT PASS – The Florida Legislature had begun the process to remove or reduce existing collateral restrictions on European Union and United Kingdom based reinsurers, to comply with the 2017 U.S. Covered Agreements.

[HB 1211](#) / [SB 1376](#) would amend section [624.610](#) Florida Statutes, to comply with the changes required by the Covered Agreements and provide the Financial Services Commission sufficient time to amend Rule [69O-144](#), Credit for Reinsurance. The Senate bill was temporarily postponed last week and never brought up again. The House bill, despite passing all of its committees, was never heard on the House floor.

Genetic Information for Insurance Purposes – PASSED – Florida will become the first state in the country to shield residents' genetic information from life insurance companies. [HB 1189](#) / [SB 1564](#) prohibits life, disability, and long-term care insurers from canceling, limiting, or denying coverage, or establishing differentials in premium rates based on genetic information. It also prohibits such insurers from taking certain actions relating to genetic information for any insurance purpose.

A 2018 federal law called the [Genetic Information Nondiscrimination Act \(GINA\)](#) made it illegal for health insurance providers in the United States to use genetic information in decisions about a person's health insurance eligibility or coverage, with certain exceptions. Now this movement is in the life insurance arena, with Florida's successful effort, pending the Governor's signature.

Pharmacy Benefit Managers (PBMs) – DID NOT PASS – While the federal government pursues tougher restrictions on PBMs in an ongoing effort to lower the cost of prescription drugs for consumers, the effort to do the same in the Florida legislature failed. [HB 7045](#), sponsored by two committees and Rep. Alex Andrade (R-Pensacola) would have increased regulation of PBMs utilized in state employee pharmacy plans and was otherwise mostly oriented toward data collection by insurance regulators and state agencies for building future recommendations.

The full House took up the bill on second reading last week, adding an [amendment](#) by Rep. Andrade that requires an annual audit of any PBM vendor of the state employees' prescription drug program and requiring price increase pre-notification. The bill passed the full House and went to the Senate where the bill died. A comparable bill in the Senate, [SB 1338](#) by Senator Tom Wright (R-Port Orange), was never scheduled for its last committee stop and is dead.

The two bills were a more conservative approach to a set of other bills which have languished in the legislature. Rep. Jackie Toledo (R-Tampa) filed [HB 961](#) that would regulate PBMs, targeting “predatory practices”. It’s inspired in part by a University of Southern California [study](#) that found that 23% of pharmacy prescriptions involved a patient copayment that exceeded the average reimbursement paid by the insurer by more than \$2.00. The average overpayment was \$7.69. Small pharmacies claim the system also creates an unfair competitive disadvantage with larger pharmacy chains.

The bill never had its first hearing, nor did a similar bill, [SB 1444](#) by Senator Gayle Harrell (R-Stuart) and a comparable bill, [SB 1682](#) by Senator Javier Rodriguez (D-Miami)

There are mixed feelings about PBMs with some insurance companies seeking to manage their prescription drug costs owning a PBM vs. other insurers who believe PBMs are part of the drug pricing problem. This is another marketplace issue, where PBMs utilize sometimes monopolistic methods in their pricing and lawmakers and regulators have now decided they want more oversight.

There does not appear to be any appetite to provide stronger regulatory oversight of PBM's. Independent pharmacists say that PBM's are price fixing and raising prices and others say they function as the economy of scale/price aggregation solution to high drug prices. If any of our readers want to learn more about this fascinating debate between one of the last bastions of "the middle man" and main street America independent pharmacies, let us know!

Criminal Justice Reform – DID NOT PASS – Led by Senator Jeff Brandes as chair of the Senate Criminal Justice Appropriations Committee, his bill [SB 1308](#) authorized resentencing and release of certain persons who are eligible for sentence review under specific conditions, including subsequent sentencing guidelines. It would have made more than 4,200 incarcerated juveniles eligible for sentence reviews and possible release from prison.

Senator Brandes’ guiding principal is that offenders should come out (of prison/incarceration) better than they went in. His passionate advocacy includes a more formal education system in correctional facilities, ready to work programs, updating the cleanliness and conditions of facilities and sentencing reform. Reform will come down to a matter of resources. The Tallahassee Democrat newspaper ran this op-ed: [My son was sentenced to life in prison at age 19 for a crime in which no one was physically harmed](#) that references his bill, which is awaiting its first hearing. A comparable bill, [HB 1131](#) by Rep. Michael Gottlieb (D-Plantation) and Rep. Fentrice Driskell (D-Tampa) never received a hearing.

Likewise, although the Senate earlier in session approved changes in mandatory minimum sentence laws, passing [SB 346](#) by Senator Rob Bradley (R-Fleming Island), the bill was never taken up in the House. It would have given judges discretion in sentencing certain drug offenses if the defendant meets certain criteria and reduced the amount of controlled-substances allowed in order to receive a shorter sentence. It was expected to reduce the state’s 96,000 prison population by 4,800 for a potential savings of \$50 million. Its companion, [HB 339](#) by Rep. Alex Andrade (R-Pensacola) and Rep. Mike Grieco (D-Miami Beach) never received its first committee meeting. **There will be no meaningful criminal justice reform in the 2020 session, despite herculean attempts by Senator Brandes year after year.**

Tobacco and Nicotine Products – PASSED – [SB 810](#) / [HB 151](#) will raise the age to 21 for all tobacco products – smoking, chewing, and electronic/vaping. The bill reflects changes on the federal level and the penalty for states that don’t comply is withholding of FEMA disaster and non-disaster grants. Congress last year passed and the President signed legislation raising the national age for tobacco products to 21, which takes effect this summer.

The Senate passed the bill week before last and sent it to the House, which approved it last week on a 99-17 vote, with some reservations. Some representatives felt including vaping was an overreach.

The bill, now on its way to the Governor:

- Increases the minimum age to lawfully purchase and possess tobacco products from 18 years of age to 21 years of age.

- Repeals exceptions allowing persons in the military and emancipated minors to possess or purchase tobacco products under current law.
- Prohibits smoking and vaping by any person under 21 years old, on or near school property, regardless of hours of the day.
- Bans cigarette vending machines from anywhere people under the age of 21 could access.
- Requires age verification before a sale or delivery to a person under 30 years of age, to comply with federal law.

The House bill, sponsored by Reps. Jackie Toledo (R-Tampa) and Nicholas Duran (D-Miami), never received its first hearing.

Other Bills That Did Not Pass

Assignment of Benefits (Windshield AOB) – DID NOT PASS – Unfortunately, the House version of the AOB windshield reform bill ([HB 169](#)) was withdrawn from further consideration at the outset of this session and in our previous editions, we reported that the Senate Banking and Insurance Committee showed no appetite to pass its proposed bill ([SB 312](#)), although the Senate sponsor vowed to keep an eye out on ways to get something passed.

While we never quit, reform of this insane practice of the flood of lawsuits against auto insurance companies did not occur this session. We will work with our colleagues who are working every day to bring some sense to this litigation insanity and will keep you posted. On my desk is a case where a lawsuit was filed for a \$4 difference in what was paid by the insurer and what the glass shop charged. You decide if that makes sense or not!

You will recall that these bills are part of the ongoing effort to reform growing AOB abuse in automobile windshield repair and replacements. It was initially part of the 2019 session's broader AOB reform, but was dropped during negotiations on final passage of [HB 7065](#) which became law last year.

The House and Senate versions were drafted to put consumers back in charge...not windshield replacement companies and their favorite trial lawyers who are gaming the system, laughing all the way to the bank at our expense.

The Florida Justice Reform Institute released its latest [Auto Glass AOB Data Update](#) in November 2019. Using Department of Financial Services' data, it shows growth from about 400 auto glass AOB lawsuits in 2006 to 24,000 in 2017, with a leveling off last year to about 17,000 suits and holding steady for 2019. Orange (Orlando) and Hillsborough (Tampa) Counties are the most popular spots for such litigation, with 15 firms accounting for 90% of the litigation. One firm (Malik Law) is responsible for filing nearly 30% of all lawsuits.

Contingency Fee Limitations Local Government – DID NOT PASS – There was an effort to make sure that local governments aren't contributing to exorbitant attorney fees or adding unnecessarily to state court caseloads, especially cases of statewide interest better pursued through the Attorney General's Office. [HB 7043](#) / [SB 1574](#) would prohibit local or regional governments from a contingency fee arrangement in excess of \$20 million with a private firm. The bills originated, in part, out of concern of the myriad local city and county lawsuits against Big Pharma for our statewide opioid addiction crisis. The House bill was supposed to have its first of only two committee hearings on February 4 before the House Oversight, Transparency and Public Management Subcommittee but was temporarily postponed and was never rescheduled. The Senate bill never had its first hearing.

Legal Advertising – DID NOT PASS – [HB 7083](#) upped the definitions of deceptive and unfair practices, which are second degree felonies. Among other things, the bill required that when recovery money is mentioned in an advertisement, it must clearly disclose the amount the client received after paying legal fees and costs. It also sought to clear up confusion some ads create on whether a product has truly been

recalled by the government. And not ironically, the bill included the right to recover court costs and attorney fees from violations of it! We'll be watching and will likely add it to the list below.

On February 4, the House Civil Justice subcommittee, which is sponsoring the bill with Rep. Tom Leek (R-Ormond Beach), heard public testimony on needed consumer protections. Lively debate discussed deceptive legal ads relating to what an actual consumer is awarded versus what the law firms receive from litigation. The speakers also addressed drug advertisements and whether consumers benefit from warnings of a drug's negative side effects. Those that supported free speech and legal advertisements, opposing this bill, referenced first amendment issues relating to the idea of placing governmental limitations on legal advertising in the state. The bill ultimately passed the committee on a 10-4 vote and never budged. A comparable bill in the Senate, [SB 1288](#) by Senator Tom Wright (R-Port Orange), failed to get its first hearing before the Criminal Justice Committee.

Property Insurance (surplus lines) – DID NOT PASS – [SB 1760](#) by Senator George Gainer (R-Panama City) addressed Surplus Lines regulation. This bill is directed at ensuring consumers have access to Florida based courts and dispute resolution processes based in Florida versus what many surplus lines policies include which requires disputes to be heard in states or countries outside Florida. But the bill affects the admitted market, raising concerns about overreaching regulation. An identical House bill, [HB 1357](#) by Rep. Jay Trumbull (R-Panama City) passed unanimously in early February without debate in the House Insurance and Banking Subcommittee but failed to get scheduled before the Civil Justice Subcommittee. The Senate bill failed to get its first hearing before the Senate Banking and Insurance Committee. None of these bills contents were contained in any other bills.

Construction Defects – DID NOT PASS – [SB 1488](#) by Sen. Joe Gruters (R-Sarasota) / [HB 295](#) Rep. David Santiago (R-Deltona) specified that certain disclosures and documents must be provided before a claimant may file an action; revising the timeframes within which certain persons are required to serve a written response to a notice of claim; providing requirements for the repair of alleged construction defects; prohibited certain persons from requiring advance payments for certain repairs; and required parties to a construction defect claim to participate in certain mandatory nonbinding arbitration within a specified time.

Residential Property Disclosures (Flood) – DID NOT PASS – Sellers of residential property would have to specifically disclose any past flooding, present flood insurance coverage, and a host of other prescriptive conditions under [SB 1842](#) by Senator Bobby Powell (D-West Palm Beach). The disclosure summary, whether separate or included in the contract for sale, would also require disclosure of any past insurance claim filings for flood damage, past FEMA or other federal assistance, and any flooding due to reservoir release. The disclosure also requires notice that the buyer should not rely on the seller's current property taxes, as a change in ownership triggers reassessments. The bill never had a hearing nor House companion bill filed.

The Miami Herald and others [have reported](#) that although current Florida law requires sellers and their real estate agents disclose known defects or anything that "materially affects" a property's value, there are cases where someone bought not knowing they were in a flood plain or had suffered previous flooding. The idea has the support of the Federal Association for Insurance Reform (FAIR) and others in [recent editorials](#).

While Realtors® are being targeted, can't we get insurance agents to step-up? The piece that's missing is the fact that insurance agents are not required to talk about flood insurance with their customers. Regardless of a home's past experience or future flood propensity, insurance agents have a responsibility to TALK about flood insurance with customers at the time of initial property insurance policy issuance and on every renewal. A handful of agents do, but for those that don't? The results are disastrous yet Florida's law is silent when it comes to mandatory insurance agent documentation of a conversation with its customers.

Sanitary Sewer Levels – DID NOT PASS – [SB 150](#) by Senator Jeff Brandes (R-Pinellas) would require a seller of real property to disclose any known defects in the property's sanitary sewer lateral. The bill

unanimously passed two committees and awaited a hearing in the Rules Committee, its last stop before heading to the full Senate for consideration. That hearing never happened.

Florida Building Code – DID NOT PASS – [SB 710](#) (with no House companion) was in reaction to the destructive damage created by last year's Hurricane Michael and other recent hurricanes. Sponsored by Senator Ben Albritton (R-Bartow), the bill mandated the Florida Building Code require that the entire envelope of certain buildings being constructed or rebuilt be impact resistant and constructed with high wind-resistant construction materials; required that all parts or systems of a building or structure envelope meet impact test criteria or be protected with an external protection device that meets such criteria; and provided certain exceptions. (See [Is Florida's Building Code Protecting All of Us?](#) and [Why the Panhandle Wasn't Hurricane Strong for Michael](#) episodes for more details, from [The Florida Insurance Roundup podcast](#).)

Motor Vehicle Rentals – DID NOT PASS – Just as you can rent out your home when you go away on vacation, likewise your car, with online services such as Turo (<https://turo.com/>). [HB 377](#) by Rep. Chris Latvala (R-Clearwater) would insert government intervention to regulate another sharing economy company advance.

In a nutshell, if a car owner parks their car at an airport for any length of time, a Turo user could “rent” that car and drive it until the owner returns from their trip. The bill provided financial responsibility & insurance requirements and a host of other regulations on this emerging idea/market. Of course, the traditional rental car companies are in favor of the legislation and Turo opposes, calling the regulations unnecessary. Its Senate companion, [SB 478](#) by Rep. Keith Perry (R-Gainesville) was never heard before the Senate Banking and Insurance Committee and is dead for this session. Another comparable “peer-to-peer car sharing” bill in the House, [HB 723](#), by Rep. Jason Fischer (R-Duval) died as well.

Discussion centered around how the peer-to-peer car sharing companies have partnered with used car lots so that those cars are part of peer-to-peer platforms. The car rental corporations are calling foul since there is no oversight, taxes or other government intervention that the car rental corporations must comply with. It does not appear however that the rental car corporations will be successful in moving the bills they support that put in place regulations over these peer-to-peer car sharing platforms.

The National Council of Insurance Legislators (NCOIL) in December 2019 adopted the [Peer-to-Peer Car Sharing Program Model Act](#) for states to consider adopting as law.

Cruelty to Dogs – DID NOT PASS – People who leave their dogs outside and unattended on a restraint during a natural disaster would face a misdemeanor charge of animal cruelty under [SB 522](#) by Senator Joe Gruters (R-Sarasota). The punishment would carry a potential \$5,000 fine and be triggered any time there's a hurricane, tropical storm, or tornado warning, or in the case of mandatory or voluntary evacuation orders. It passed the Criminal Justice committee unanimously in December and was awaiting a hearing in the Judiciary committee that never was scheduled. It had no House companion.

Meanwhile [SB 1044](#) by Senator Jason Pizzo (D-Miami), referenced as “Allie’s Law” would require veterinarians to report suspected animal cruelty in certain circumstances and provide immunity from criminal and civil liability for certain persons and entities. It unanimously passed the Senate Judiciary Committee in early February and never got any further. A similar House bill, [HB 621](#) by Reps. Dan Daley (D-Coral Springs) and Scott Plakon (R-Longwood) never received a hearing.

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