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Key Provisions of 2021 Insurance Consumer Protections (SB 76 & SB 1598)

[Senate Bill 76](#) (SB 76, now Florida Law section [489.147](#), effective 7/1/2021) is designed to further reform bad practices and protect insurance consumers from **double-digit rate increases**, **misleading roof solicitations**, **costly claims practices**, and **excessive litigation**. Bill sponsor Senator Jim Boyd (R-Bradenton) said the 20%-50% rate increases on homeowners policies are being driven largely by excessive litigation “and unscrupulous actors,” with Governor DeSantis noting “a huge, huge proportion of the money was going to litigation expenses,” and the need to make homeowners insurance affordable again. Insurance Commissioner David Altmaier, [citing NAIC data](#), declared that Florida has 8% of all homeowners’ claims in the U.S., yet 76% of all homeowners’ claims lawsuits.

The law broadens the current [one-way attorney fee statute](#) formula. If the claimant recovers:

- At least 50% of the disputed amount, full attorney fees would be awarded to the claimant;
- Less than 20%, then there would be no attorney fees; and
- Between 20% and 50%, the claimant would merit the same proportional attorney fee to the percentage of the disputed amount obtained.

The law tightens restrictions on roofing contractors and public adjusters to stem the increasing practice of blaming normal wear and tear on hurricanes or hail storms to justify full replacement claims:

- Contractors or unlicensed persons acting on their behalf may not solicit or incentivize a residential property owner to file a roof damage insurance claim, nor may they act as a public adjuster or perform any function connected to submitting a claim;
- Public adjusters, public adjuster apprentices, or unlicensed persons acting on their behalf may not incentivize a residential property owner to allow a contractor or themselves to inspect a roof or file a roof damage insurance claim;
- Public adjusters are also barred from accepting payment from contractors or attorneys;
- Violations include fines up to \$10,000 per violation;
- Policyholders have 10 days (up from 3 days) to cancel a contract with a public adjuster they have hired to represent them before an insurance company;
- A separate bill that passed into law, [SB 1598](#) (described further below) gives the Department of Financial Services new enforcement powers, including levying fines, against contractors.

The law requires earlier notice of property insurance claims, reducing the deadline for filing claims on any loss from three years to two years. The policyholder then has another year to file a supplemental claim if needed.

Insurance companies must get a 10-day notification and demand before a lawsuit is filed by first-parties, such as homeowners or commercial building owners. Insurance carriers then have 10 days to respond in writing to such notices, called Notices of Intent to Litigate (NOITL). Notices may not be filed until the insurance company makes its coverage decision (which it has 90 days to do under current law). Their purpose is to allow insurance companies to resolve conflicts which lead to better insurance consumer outcomes and to reduce costly litigation.

The law seeks consolidation of lawsuits by requiring each party that is aware of multiple lawsuits pertaining to the same property address to notify the court, which may then order the actions be consolidated.

The law makes changes to Citizens Property Insurance Corporation (Citizens), the taxpayer-backed, state-run insurer of last resort, whose policy count has been rapidly rising:



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- Changes the eligibility to be a Citizens policyholder, by requiring that private insurance company coverage has to be 20% more expensive (up from 15%) to qualify to switch to Citizens;
- Establishes that Citizens' may add 1% per year to its current 10% cap on rate increases until it reaches a maximum of a 15% rate cap on increases in 2026;
- Establishes that if Citizens does not buy reinsurance to cover its projected 100-year probable maximum loss, it must still include the cost of such reinsurance in its rate calculations; and
- Establishes that Citizens must have budget allocations for employee salaries, raises for any individual employee in excess of 10%, and an overall employee compensation plan approved by the Citizens' Board of Governors.

The law requires collection of property insurance claims litigation data. Each insurance company or insurance group doing business in Florida must file specific data regarding litigation of personal and commercial residential property insurance claims with the Office of Insurance Regulation (OIR) on an annual basis. This is designed to add more transparency to the true distribution of claims dollars (damages vs. attorney fees). It also gives OIR authority to examine managing general agents (MGAs), including insurers' affiliates.

[Senate Bill 1598](#) (SB 1598, now Florida Law amending section [501.0051](#), effective 6/16/21) has much the same language as SB 76 but includes important language clarifying that **only an attorney or licensed public adjuster may prepare, complete or file an insurance claim** for a policyholder or third-party claimant or negotiate on their behalf in a damages claim. It also gives the Department of Financial Services new powers to pursue administration action **and impose fines on contractors and other solicitors and those performing related services, acting as unlicensed public adjusters.**

Specifically, the law:

- Establishes licensing requirements within the Department of Financial Services (DFS) similar to those for insurance agencies and requires all adjusting firms become licensed, but provides that an adjusting firm's branch place of business does not require licensure if it meets specified requirements;
- Makes it a third degree felony for knowingly aiding or abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities without a license;
- Requires a public adjuster to provide a written estimate of the loss within 60 days after the date of the contract and allows the policyholder or claimant to cancel a public adjuster contract within 10 calendar days without penalty;
- Prohibits a licensed contractor or subcontractor from advertising, soliciting, offering to handle, handling, or performing public adjuster services unless licensed and compliant as a public adjuster;
- Prohibits persons other than a licensed public adjuster or attorney from offering to initiate or negotiate on behalf of an insured or advertising services which require a public adjuster license;
- Prohibits a public adjuster, public adjuster apprentice, or public adjusting firm, who solicits a claim and does not enter into a contract with an insured or third party claimant, from charging or receiving payment from an insured or a third-party claimant;
- Prohibits agents or adjusters from doing in-person or telephone solicitation after 9 p.m. or before 8 a.m. unless requested by the prospective customer;



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- Authorizes DFS to suspend or revoke licenses and/or impose fines against unlicensed persons performing claims adjusting, soliciting, or other related activities; and
- Eliminates the \$60 fee for a new or renewal adjusting firm license.

The bill also establishes new rules and requirements on insurance companies beginning January 1, 2022, specifically:

- Requires an insurance company inform an applicant that a credit report or score is being requested for underwriting or rating purposes and to notice the availability of the DFS free financial literacy program;
- Requires an insurance company to begin its investigation of a claim within 14 days (up from the current 10 days) after receiving the proof of loss;
- If the investigation involves a physical inspection of the property, the adjuster assigned by the company must provide the policyholder with his or her name and license number;
- Requires the company maintain a record or log of each adjuster who communicates with the policyholder and provide the list of adjusters to the DFS or the Office of Insurance Regulation (OIR);
- Requires the company, when providing a preliminary or partial estimate regarding a claim, to provide the following statement to the policyholder: “THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.”;
- Requires the company that issues a payment on a claim which is not the full and final payment, to provide the following statement: “WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.”; and
- Requires the company to provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication concerning a claim and after a state of emergency declaration.

The bill also provides disclosure requirements that insurance coverage must meet before being eligible for export under Florida’s Surplus Lines Law, specifically:

- Requires a consumer purchasing a surplus lines policy to sign a disclosure clearly stating that it is a surplus lines policy, that coverage may be available in the admitted market, and that the policy is not protected under the Florida Insurance Guaranty Act with respect to any recovery in the case of an insolvent unlicensed insurer;
- Labels as “sliding” issuing a policy or submitting a premium invoice to a mortgagee or escrow agent without the prior informed consent of the property owner; and
- Applies the property insurance claim investigation and communication requirements of section 627.70131, Florida Statutes, to surplus lines insurers.



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The bill also address life & health insurance lines, by:

- Authorizing regulators to disapprove use of insurance agency names containing the words “Medicare” or “Medicaid” and prohibits life insurers from writing new policies of industrial life insurance beginning on June 30, 2023; and
- Prohibiting agents and adjusters from doing anything that allows a consumer’s personal financial or medical information to be made publicly available.