

Statutory Changes on Property Insurance – 2023 Regular Session of Florida Legislature

Questions? Please call Lisa Miller 850-528-9229 or email me lisamiller@lisamillerassociates.com

SB154- an act relating to condominium and cooperative associations

Section 3-line 367 - eliminates the requirement that Citizens Insurance customers who purchase an HO6 policy are required to purchase flood insurance.

SB418 - an act relating to insurance

Section 3- line 103 - allows the use of multiple computer models to determine a company's hurricane rates.

Section 5- line 169 - allows a company to offer additional mitigation credits “developed by an independent, nonprofit, scientific research organization.” This language was put in the bill to allow companies to offer additional wind mitigation credits developed by the Institute of Building and Home Safety (IBHS).

Section 8- line 228 - authorizes increased deductibles 1) 3% rather than 2% for homes with schedule A values between \$1,000,000 and \$3,000,000 and 2) eliminates the need to offer a 2% deductible on homes valued over \$3 million.

HB 1185 - an act relating to consumer protection

Section 14 (line 1035) amends 627.4025 Residential and Hurricane coverage defined

The bill shortens the time that a hurricane deductible can be applied to a loss. Prior law defined the beginning of hurricane coverage as “any time a hurricane warning or hurricane watch is issued for any part of Florida”. This bill deletes the reference to a hurricane watch so hurricane coverage now begins when a hurricane warning is issued for any part of Florida.

Section 15 (line 1057) amends 627.4133 notice of cancellation

This section of the bill shortens the time when a cancellation or termination of new business can occur from 90 days to 60 days after the policy is in force.

Section 11 (line 863) amends 626.8796 public adjuster contracts

The bill outlines new requirements for public adjuster contracts:

- 1) Prior to signing the contract, the insured must be given a disclosure statement approved by the Office of Insurance Regulation (OIR).
- 2) The insured must sign the contract and initial each page of the contract.
- 3) The insured must be given an executed copy of the contract.
- 4) A copy of the signed contract must be given to the insurance company within seven days of execution.
- 5) The contract must state that the public adjuster does not receive any compensation for services performed prior to the date the contract was executed.
- 6) The contract must provide that, in the event of an emergency declaration by the governor, the insured can rescind the contract without penalty within 30 days after the date of loss or ten days after signing the contract, whichever is later.
- 7) The contract must provide a right of rescission if the itemized estimate of the loss is not completed and submitted to the insurer within 60 days.
- 8) The disclosure statement must explain to the insured that they have the right to initiate contact with the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the claim.

Section 8 (line 416) amends 626.854 public adjuster defined

- 1) The bill prohibits the public adjuster from contracting for services of a third party without the expressed permission of the insured.
- 2) The new language prohibits public adjusters from collecting a fee on any payments made prior to the execution of the public adjuster contract.
- 3) The bill provides insured may cancel the public adjuster contract with no penalty or fees if a written estimate is not provided within 60 days after the contract is signed.

SB7052 – Insurer Accountability

Section 1 (line 122) – requires the OIR to report any suspected violation of criminal law to the Division of Investigative and Forensic Service or law enforcement.

Section 2 (line 132) – reduces the time for providing documents to the OIR regarding a complaint from 20 days after the receipt of a written request from 20 days to 14 days and increases the fines for non-compliance.

Section 3 (line 151) – requires new quarterly report of enforcement activity by the OIR.

Section 4 (line 196) – requires OIR to create a risk-based selection methodology for scheduling examinations of insurers.

Section 5 (line 266) – requires additional market conduct examinations at any time at least 90 days after landfall of a hurricane. The language in the original bill has been clarified to make it clear that the companies that must be examined are a) the top 20 insurers based on the ratio of insurance related consumer complaints to the total number of hurricane related claims and b)

the top 20 percent of insurers based on the ratio of hurricane claims closed without payment to the total number of hurricane claims. An insurer providing liability coverage can be subject to enhanced penalties if the market conduct examination uncovers a pattern or practice of violating the insurance code. The new statute includes a long list of what an insurance company must do to respond adequately to a liability claim.

Section 6 (line 476) – gives OIR the authority to fine companies rather than suspend or revoke their certificate of authority.

Section 7 (line 531) – requires every company provide the OIR with at least 20 days’ notice prior to the temporary discontinuance of writing new business. Language has been added which makes it clear that this new statute does not apply to the temporary suspension of writing new business in response to a hurricane which may make landfall in Florida provided the suspension ceases within 72 hours after hurricane conditions are no longer present in Florida.

Section 8 (line 565) – creates a new section of law, FS 624.805 defining the standards for determining a company in “hazardous financial condition” and giving the OIR authority to evaluate that status and providing enforcement authority. The statute authorizes the OIR in its discretion and without advance notice or a hearing to issue an immediate final order to any company deemed in hazardous financial condition.

Section 9 (line 742) – deletes section 11 of FS624.81 which gave the OIR the authority to adopt rules substantially similar to the standards contained in the NAIC 1997 model act relating to Hazardous Financial Condition.

Section 10 (line 753) – provides additional rule making authority to the Financial Services Commission.

Section 11 (line 758) – amends FS628.8015 the statute governing Own-Risk Assessment (ORSA).

Section 12 (line 897) – adds language to FS626.207 to provide a seven-year disqualification period for any applicant or licensees who violate the Florida Insurance Code.

Section 13 (line 908) – amends FS626.9521 (unfair or deceptive acts) to increase the financial penalties and adds language to provide enhanced penalties if the deceptive practices involve claim handling after a hurricane.

Section 14 (line 956) – amends FS626.9541 (1)(i) (Unfair claim settlement practices) to add language making it a violation to alter or amend an insurance adjuster’s report without including a listing of all the changes, the identity of the person ordering the change, and explain the reason for any change that reduced the amount of the estimate. Language in this section of the bill also makes it a violation to pay bonuses from an impaired or insolvent insurer.

Section 15 (line 1057) – requires additional reporting by the Division of Investigative and Forensic Services.

Section 16 (line 1144) – amends FS627.0629 to require insurers to put information regarding wind mitigation discounts on their website by October 1, 2023. Prior to January 1, 2025, and every five years thereafter, the OIR is required to re-evaluate wind mitigation credits.

Section 17 (line 1203) – requires Citizens to cover homes insured by insolvent carriers that have not been repaired.

Section 18 (line 1215) – prohibits the OIR from waving a form filing requirement for any insurer that has violated the Florida Insurance Code in the last 36 months.

Section 19 (line 1230) – The original bill required the submission of claims handling manuals to the OIR. This section of the bill requires every company to “create and use a claims-handling manual.” The manual must cover a list of subjects outlined in the bill, be furnished to the OIR, and must be attested on or before August 1, 2023, and annually thereafter beginning on May 1 of each calendar year.

Section 20 (line 1299) – prohibits the cancellation or non-renewal of a home damaged by a hurricane until at least 90 days after the repairs have been completed. This section also prohibits the cancellation or nonrenewal of a policy “until the earlier of when the dwelling or residential property has been repaired or one year after the insurer issues the final claim payment if such property was damaged by any covered peril” (other than a hurricane). The insurer can still cancel or nonrenew a policy within 10 days for nonpayment of premium or 45 days for a material misstatement or unreasonable delay in repair caused by the insured or the payment of policy limits.

Section 21 (line 1361) – clarifies that if the policy has a roof deductible that’s the only deductible that applies in the event of a loss.

Section 22 (line 1394) – tolls the one-year limit for filing claims and the 18-month limit for filing claims for active members of the federal or state armed forces.

Section 23 (line 1412) – attempts to clarify the effective date of SB2A by providing that “Chapter 2022-271, Laws of Florida, shall not be construed to impair any right under an insurance contract in effect on or before the effective date of that chapter law. To the extent that chapter 2022-271, Laws of Florida, affects a right under an insurance contract, that chapter law applies to an insurance contract issued or renewed after the applicable effective date provided by the chapter law. This section is intended to clarify existing law and is remedial in nature.”

Section 24 (line 1420) – requires every rate filing “made or pending” after July 1, 2023, to reflect the cost savings anticipated because of SB76, SB2D, SB2A, and CS for HB837.

Section 25 (line 1456) – appropriation of \$2,064,215 to the OIR to implement this act.

Section 26 (line 1462) – appropriation of \$607,503 to DFS to implement this act.

Section 27 (line 1468) – effective date July 1, 2023.