



To: Tim Cerio, President/CEO and Executive Director  
From: Brian Newman, Chief Legal Officer and General Counsel  
CC: Michael Wickersheim, Legislative and Cabinet Affairs Manager  
Date: Friday, March 28, 2025

**SUBJECT: Impact of HB 1551**

I am writing to bring to your attention proposed legislation that, if approved, would reverse recent gains and negatively impact Florida's recovering property insurance market. HB 1551 has been described as a "loser pays" fee-shifting statute. With all due respect, it is not.

Attached is a legal memorandum prepared by former Florida Supreme Court Chief Justice Ricky Polston, with the Shutts law firm. Mr. Polston's memorandum points out that HB 1551 "effectively reinstates" the one-way attorney's fee provision repealed by SB 2A. **(See Ricky L. Polston, Memorandum of Law, March 24, 2025, p. 1).** This is because HB 1551 incorrectly measures a "win" at trial. Complete trial victories happen, but often the winner is the party who gets a verdict closest to its pre-trial expectation. Under HB 1551, the winner, or "prevailing party," at trial is measured against the insurance company's offer only; the policyholder's pre-trial demand is completely disregarded.

Further, HB 1551 adds the policyholder's attorney's fees and costs to the judgment, all but guaranteeing the policyholder will recover fees in most cases. This is the very definition of a one-sided fee-shifting provision, akin to the fee-shifting statute that was abolished by SB 2A. Here is an example of an insurance company win that is a loss under HB 1551:

Before trial, the policyholder demands \$300,000 and the insurance company offers \$50,000. At trial, the jury awards \$40,000 to the policyholder. But the policyholder's attorney's fees and costs at the time the offer was made were \$11,000, making the judgment amount \$51,000. **The insurance company loses, and must pay the policyholder's fees and costs, even though it persuaded the jury that it owed \$10,000 less than the company's offer.**

The bottom line is that HB 1551 is a one-sided fee-shifting provision because it measures success against the insurance company's offer only and artificially inflates judgments by adding in the policyholder's fees and costs. The insurance company's fees and costs are not considered, and the policyholder has no incentive to make a reasonable offer before trial.

**SB 2A encourages settlement, reduced litigation, and revived the private market.**

Under current Florida law, the offers of both parties are given equal weight. A party wins if it beats its own offer by 25%. This procedure encourages settlement because it requires a party to pay fees and costs if it rejects the other side's reasonable offer. **(See Polston, p. 2).** This fee-shifting procedure has reduced litigation. Since SB 2A became law, insurance litigation in Florida has declined by 40% and is beginning to normalize.

The reduction in litigation is the primary driver of Florida's insurance market recovery. Before SB 2A, Florida accounted for 76% of the nation's total property insurance litigation and the private market was on the brink of collapse. From 2019-2022, 10 insurance carriers in Florida went insolvent.

Now, all signs point to a strong recovery. Since SB 2A became law, 11 new carriers have entered the Florida market; 19 companies have filed for a rate decrease and 36 companies have requested no increase in rates. Meanwhile, over 855,000 policies have left Citizens for the private market through the Citizens Depopulation Program, reducing the risk of assessments on all Florida insurance consumers. HB 1551 would be a gigantic step backward for Florida and jeopardize the private market resurgence.