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Key Provisions of 2023 Insurance Consumer Protections & Market Reforms (HB 837, HB 1185, SB 1002, HB 7052 & HB 799)

The Florida Legislature passed a series of bills in its 2023 legislative session that built on property insurance reforms in its [two special legislative sessions of 2022](#). The bills, all signed into law by the Governor, provide **further litigation reform, protect insurance consumers against bad actors, encourage hazard mitigation, and strengthen Florida's property insurance market.**

Highlights of [HB 837 \(Civil Remedies\)](#) – Signed into law by Governor DeSantis and immediately effective on March 24, 2023.

The bill picks up where the December 2022 special session on insurance market reforms left off, by eliminating one-way attorney fees in most lines of insurance – not just property insurance – and restricting the use of contingency fee multipliers and bad faith claims. It also makes additional changes to state statutes to reduce excessive litigation and resulting costs to insurance consumers:

- **One-Way Fees** – Repeals the one-way attorney fee statute (as was done for property insurance in [December 2022](#)) for all admitted and surplus lines, including auto insurance. The plaintiff attorney fees will only be paid in a favorable judgment if the insurer totally denies insurance coverage and the plaintiff lawyer prepares (and wins) a declaratory judgment action (dec action) to determine coverage. Reservation of rights letters do not constitute as a claim denial. This section does NOT apply to property insurance total denial dec actions nor actions involving surety bonds for construction contracts.
- **Contingency Fee Multipliers** – Adopts the federal standard for a contingency fee multiplier in an attorney fee award in that it applies in only rare and exceptional circumstances.
- **Filing Time Limit** – Requires general negligence cases to be filed within two years, down from four years, with exceptions for active duty servicemembers.
- **Offers of Judgment** – Provides that an offer of judgment applies to any civil action involving an insurance contract.
- **Comparative Negligence** – Changes Florida's comparative negligence system from a "pure" to a "modified" system, so that if a plaintiff is more than 50% at fault for their injuries, they may not recover damages from any defendant. Personal injury or wrongful death arising out of medical negligence are not included with this change.
- **Bad Faith** – Changes Florida's "bad faith" framework for suing insurance companies:
 - There is no bad faith involving a liability insurance claim if the insurance company tenders the lesser of the policy limits or the amount demanded by the claimant within 90 days after receiving notice of the claim and sufficient evidence to support it.
 - Negligence alone and failure to tender policy limits is not bad faith.
 - A judge can consider failure of the policyholder/claimant to act in good faith when determining damages against the insurer.
 - Allows an insurance company, if there are multiple claimants in a single action, to limit its bad faith liability by paying the total amount of the policy limits within 90 days of such notice, directly to the court through an interpleader action or, through binding arbitration agreed to by all parties, making the entire policy limits available for payment to the competing third-party claimants.
 - Binding arbitration is paid for by insurance company, all parties must agree to it and it is allowed with more than one claimant where policy limits are exceeded.
- **Transparency in Damages** – Establishes uniform jury standards to transparently calculate personal injury or wrongful death medical damage costs:
 - Evidence of past paid medical bills and unpaid bill data will now be a part of a court case.



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- Ensures that a letter of protection is not inflated by ensuring the health insurance benefits are transparent to the jury.
- Evidence of past or future unpaid medical bills for those uninsured or on Medicaid/Medicare are subject to 120% of the Medicare rate or 170% of the Medicaid rate if no Medicare rate.
- Evidence of past medical bills if letter of protection is sold is the sales price of the letter.
- Evidence of future medical bills for insured plaintiffs is the provider health insurance rate for future care plus the plaintiff's cost share.
- The jury can also be presented any reasonable amount for past and future medical bills.
- **Plaintiff Counsel/Provider Financial Relationship** – Allows the defense to obtain information about and disclose referral relationships between a plaintiff's counsel and a treating provider.
- **Premises Liability** – All persons who contributed to the injury in a premises liability action will now be considered in a civil action. The bill establishes a presumption against liability for criminal acts of apartment complex non employees, owners or operators that occur in the complex if security measures and training is in place.

Highlights of [HB 1185 \(Consumer Protection\)](#) - Signed into law by Governor DeSantis on May 24, 2023 and effective July 1, 2023.

The law adds some consumer protections for policyholders and tightens rules governing public adjusters.

- **Hurricane Deductible** – The law defines “hurricane deductible” as applying to loss caused by a hurricane. It also shortens the time that a hurricane deductible can be applied to a loss by limiting hurricane coverage to only that time when a hurricane warning is in effect for any part of Florida, instead of any time there is a hurricane warning or watch.
- **Policy Cancellation** – Shortens the time a property or casualty insurer can cancel a policy from 90 days to 60 days unless there is material misstatement, nonpayment of premium, or failure to comply with underwriting requirements.
- **Public Adjuster Contracts** – New contract requirements include:
 - Prior to signing the contract, the policyholder must be given a disclosure statement approved by the Office of Insurance Regulation (OIR).
 - The policyholder must sign the contract and initial each page of the contract.
 - The policyholder must be given an executed copy of the contract.
 - A copy of the signed contract must be given to the insurance company within seven days of execution (instead of 30 days).
 - The contract must state that the public adjuster does not receive any compensation for services performed prior to the date the contract was executed.
 - The contract must provide that, in the event of an emergency declaration by the governor, the policyholder can rescind the contract without penalty within 30 days after the date of loss or 10 days after signing the contract, whichever is later.
 - The contract must provide a right of rescission if the itemized estimate of the loss is not completed and submitted to the insurance company within 60 days.
 - The disclosure statement must explain to the policyholder that they have the right to initiate contact with the insurance company, the insurance company adjuster, the company's attorney, or any person regarding the settlement of the claim.
 - Prohibits the public adjuster from contracting for services of a third party without the expressed permission of the policyholder.
 - Prohibits public adjusters from collecting a fee on any payments made prior to the execution of the public adjuster contract.



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- Limits the public adjuster fee to 0% of the claim payment or settlement amount if the insurer agreed to pay prior to contract execution; limits the fee to 1% if the insurer pays policy limits or if the insurer agreed to pay policy limits within 14 days after the date of loss or within 10 days of the execution of the contract.
- The policyholder 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, except for factors beyond the public adjuster's control.
- Invalidates public adjuster contracts that do not comply with law.
- Allows the Department of Financial Services (DFS) to inspect a public adjuster's claim records and files, and requires public adjusters keep certain records for five years and display their license at their place of business and in the field.
- **Other Lines and Businesses** – The law also contains [provisions](#) for annuity investments, mortgage loans, money service businesses, crowd-funding campaigns, distributed energy generation platforms, and warranty associations.

Highlights of [SB 1002 \(Motor Vehicle Glass\)](#) – Signed into law by Governor DeSantis and immediately effective on May 25, 2023.

Previous litigation abuses of the Assignment of Benefits (AOB) contract in property insurance damage repair have also applied to AOBs generated by auto glass shops that repair or replace windshields. There were 37,000 lawsuits against insurance companies related to auto glass in 2022. The new law:

- **Prohibits AOBs** between auto glass repair shops and policyholders related to glass or glass calibration/recalibration.
- **Prohibits inducements** by motor vehicle repair shops, their employees, and their representatives to a customer of anything of value in exchange for making an insurance claim for motor vehicle glass replacement or repair.
- **Prohibits insurance companies** from requiring a policyholder to use a particular company for glass replacement, repair, or calibration.
- **Requires discounts** by insurance companies on policies with a managed repair program.
- **Revises definitions** under the Florida Motor Vehicle Repair Act to ensure that businesses that calibrate or recalibrate advanced driver assistance systems associated with windshields are regulated.
- **Requires repair shops** provide notice to the customer whether calibration or recalibration of the advanced driver assistance system is required to make the system operable, and must provide service that meets or exceeds the vehicle manufacturer's specifications.

Highlights of [SB 7052 \(Insurer Accountability\)](#) – Signed into law by Governor DeSantis on May 31, 2023 and effective July 1, 2023.

The law enacts a series of wide-ranging measures intended to increase accountability and transparency of insurance companies with regulators and consumers. Its major provisions include:

Increased regulation

- **Market Examinations** – The Florida Office of Insurance Regulation (OIR) is required to schedule market conduct examinations 90 days after landfall of a hurricane with:
 - The top 20% of insurers with the highest ratio of consumer complaints to number of hurricane claims; and
 - The top 20% of insurers based on the ratio of hurricane claims closed without payment to the number of hurricane claims.



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- Insurers that have made significant payments to their managing general agent since the hurricane.
- Insurers identified by OIR as needing a market conduct exam for any other reason.

Additionally:

- 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, including a doubling of fines.
 - The new statute includes a long list of what an insurance company must do to respond adequately to a liability claim.
 - The law requires OIR to create a risk-based selection methodology for scheduling both market conduct and financial examinations of insurers. This includes:
 - Prioritizing property insurers that OIR identifies significant concerns about their solvency.
 - Any other matters the OIR deems necessary to consider for the protection of the public.
 - For financial examinations of insurers, consideration includes:
 - Level of capitalization and identification of unfavorable trends;
 - Negative trends in profitability or cash flow from operations;
 - National Association of Insurance Commissioners Insurance Regulatory Information System ratio results;
 - Risk-based capital and risk-based capital trend test results;
 - The structure and complexity of the insurer;
 - Changes in the insurer's officers or board of directors;
 - Changes in the insurer's business strategy or operations;
 - Findings and recommendations from an examination;
 - Current or pending regulatory actions by the OIR or the DFS;
 - Information obtained from other regulatory agencies or independent organization ratings and reports; and
 - The impact of an insurer's insolvency on policyholders of the insurer and the public generally.
 - The law [specifies 29 factors](#) that OIR may consider in determining whether the continued operation of an insurer may be deemed hazardous to its policyholders, creditors, or the general public.
- **Reporting** – The law puts new reporting requirements on insurance companies, as well as on OIR:
 - Insurers have 14 days (down from 20 days) to provide documents to the Department of Financial Services Division of Consumer Services regarding a complaint and face increased fines for non-compliance.
 - Insurers must provide the OIR with at least 20 days' notice prior to a temporary discontinuance of writing new business, excepting the 72-hours after a hurricane landfall.
 - OIR is required to produce quarterly enforcement activity reports.
 - OIR is required to report any suspected violation of criminal law to the Department of Financial Services Criminal Investigations Division or law enforcement.
 - OIR is prohibited from waving a form filing requirement for any insurer that has violated the Florida Insurance Code in the last 36 months.
 - **Fines/Penalties** – The law increases fines and penalties on insurance companies:
 - OIR has the authority to fine companies rather than suspend or revoke their certificate of authority.
 - Increases fines imposed by OIR for willful and non-willful violations of the Florida Insurance Code by 250% generally and 500% for violations stemming from a state of



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emergency, such as a hurricane. Violations include twisting, churning and submitting fraudulent signatures on an insurance application or policy-related documents, and other violations of the Unfair Trade Practices Act. Aggregate fines can now reach of up \$1 million.

- Prohibits OIR from waving a form filing requirement for any insurer that has violated the Florida Insurance Code in the last 36 months and provides a seven-year disqualification period for any applicant or licensee that does so.
- **Financial Stability** – The law replaces the NAIC 1997 model act defining a company's Hazardous Financial Condition with a new state standard. It gives OIR authority to evaluate companies to that standard and authorizes 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. An impaired or insolvent insurer is now prohibited from paying bonuses to executives.
- **Agent Licensing** – The law allows the Department of Financial Services (DFS) to deny licensure to an applicant who has committed certain misdemeanors.

Focus on Claim Handling

- **Unfair or Deceptive Acts** – The increased fines above include added language to provide enhanced penalties if the deceptive practices involve claim handling after a hurricane.
- **Adjuster Reports** – Makes it a violation under the unfair claim settlement practices of state law to alter or amend an insurance adjuster's report without including a listing of all the changes, the identity of the person making the change, and explaining the reason for any change that reduced the amount of the estimate.
- **Claims Handling Manuals** – Each company must create and use a claims-handling manual covering subjects outlined in the bill, submit it to OIR and attest to its use annually.
- **Armed Forces Exemption** – Tolls (suspends) the one-year limit for filing claims and the 18-month limit for filing supplemental claims for active members of the federal or state armed forces.

Enhanced Insurance Coverage

- **Wind Mitigation Discounts** – Requires insurance companies to post consumer-friendly wind mitigation discount information on their websites by October 1, 2023 and requires OIR to re-evaluate mitigation credits before January 1, 2025 and every five years thereafter.
- **Citizens Insurance Corporation** – Requires Citizens to cover homes insured by insolvent carriers that have not been repaired.
- **Policy Cancellation** – Prohibits personal or commercial policy cancellation or non-renewals: as follows:
 - For properties damaged by a hurricane, cancellations/non-renewals cannot occur until at least 90 days after repairs have been completed.
 - For properties with non-hurricane/non-wind damage, cancellations/non-renewals cannot occur until after repairs are complete or one year after final payment of the claim, whichever is earlier.
 - An insurance company 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.
- **Deductibles** – Clarifies that if the residential policy has a roof deductible, then that's the only deductible that applies in the event of a loss.

Rates that Reflect Cost Savings



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The law requires every property or automobile rate filing by an insurance company made or pending after July 1, 2023, to reflect the cost savings anticipated because of past legislative reforms from 2019-2023, specifically: [SB 76](#), [SB 2-D](#), [SB 2-A](#), and [HB 837](#). It appropriates \$500,000 from the Insurance Regulatory Trust Fund for the OIR to obtain an actuarial study to implement this requirement.

The law also clarifies that the repeal of the one-way attorney fee statute for property insurance under [SB 2-A](#) applies to policies issued or renewed after the law's effective date of December 16, 2022.

The law also makes changes to fraud reporting by DFS and insurance fraud prosecution. It includes nearly \$4 million in additional funding, and more positions, to expand support for the Department of Financial Services mediation program and the insurance helpline. It also increases staffing at OIR.

Highlights of [HB 799 \(Property Insurance\)](#) – Signed into law by Governor DeSantis on May 31, 2023 and effective July 1, 2023.

The law requires residential property insurance company rate filings to account for windstorm mitigation measures undertaken by policyholders that would reduce storm damage and losses. It also relaxes certain requirements on Citizens Property Insurance. It specifically:

- Requires that residential rate filings include actuarial discounts for wind uplift prevention measures.
- Includes a \$750,000 appropriation for a new wind loss mitigation study to be done by the Office of Insurance Regulation (OIR), the Department of Business and Professional Regulation, and the Florida Building Commission.
- Allows a residential or commercial property insurance company to deny a wind claim if the policyholder did not also carry required flood insurance if there was flood coverage when the policy was issued, but not at time of loss.
- Clarifies and broadens certain provisions by Citizens Property Insurance Corporation:
 - Eliminates the requirement for Citizens' condominium unit policyholders to purchase flood insurance.
 - Clarifies that the flood insurance requirement for Citizens policyholders is based on replacement cost, not property value.
 - Allows Citizens to include policy language providing alternative dispute resolution through the Florida Division of Administrative Hearings (DOAH), including Offers of Judgment and Proposals for Settlement.
 - Allows Citizens to charge incoming policyholders from insolvent carriers up to 50% over its approved rate and to exempt the policy from Citizens' legislatively-mandated rate increase glidepath. The same applies to policies that do not cover primary (homesteaded) residences.