



Florida Insurance

What Happened and What's Next?

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What Got Us Here?

- ▶ Florida has a long history of insurance challenges
 - ▶ Mold Coverage
 - ▶ In the 1990s lawsuits related to mold exploded.
 - ▶ Mold and fungi are present nearly everywhere, and no standards existed to determine normal levels
 - ▶ Broad coverage language provided opportunities to file frivolous and excessive claims that could not be defended by insurance companies.
 - ▶ Addressed by coverage changes and limitations on mold and fungi losses
 - ▶ Sinkhole Coverage
 - ▶ In 2006 2,360 claims were filed, but by 2010 sinkhole claims had risen to 6,694.
 - ▶ Much of the increase in claims was due to homeowners filing claims for small cracks in the foundation or walls.
 - ▶ Legislation provided a more defined threshold for the application of coverage including visible ground subsidence and damage to the home.

What Got Us Here?

▶ Water Damage

- ▶ Beginning around 2010 water claims frequency and severity steadily began to increase.
- ▶ Assignment of Benefits contracts were increasing used by the water restoration industry
- ▶ Water damage coverage limitations were imposed.

▶ Roof Claims

- ▶ First with Assignment of Benefits and later as 1st-party lawsuits roof claims and litigation began substantially increasing each year starting in 2015.



Insurance Marketplace Collapse

- ▶ Roof Claims and Legal System Abuse
 - ▶ Insurance rates could not keep up with the rising costs incurred by Insurance Companies
- ▶ Since 2020 Companies have withdrawn from Florida or gone out of business
 - ▶ Avatar Property & Casualty
 - ▶ FedNat Insurance Company
 - ▶ Florida Specialty Insurance Company
 - ▶ Gulfstream Property & Casualty
 - ▶ Southern Fidelity Property & Casualty
 - ▶ Capitol Preferred Insurance Company
 - ▶ St Johns Insurance Company
 - ▶ United Property & Casualty
 - ▶ Weston Property & Casualty
 - ▶ Farmers Insurance Company
 - ▶ Bankers Insurance Company



Legislative Reform

- ▶ Why was reform needed?
 - ▶ From 2015 to 2021 \$15 Billion was paid by insurance companies with \$10 Billion going to attorneys fees.
 - ▶ Florida represented 76% of all litigated property insurance claims in country while representing 8% of insured properties.
 - ▶ Florida allowed attorney fee multipliers in cases that would not be allowed in any other state.
 - ▶ Over 5 years the average attorney fee payout in property insurance lawsuits increased nearly 500%
 - ▶ Increases in aggressive methods by bad actors to induce homeowners to file claims.



Jimmy Patronis – Florida CFO

[@JimmyPatronis](#)

“After storms, predators come in like a bunch of locusts to take advantage of people who are vulnerable. If it’s too good to be true, it probably is.”



Legislative Reforms

- ▶ **2019 HB 7065 - Insurance Assignment Agreements (AOB)**
 - ▶ Eliminates one-way attorneys fees and determines a schedule to determine which party, if any, receives an award of attorney fees should litigation related to AOB result in judgment.
 - ▶ This was a good first step, but 3rd-party AOB lawsuits quickly shifted to 1st-party lawsuits.
- ▶ **2021 SB 76 - Prohibition on Solicitation and Offering of Inducements**
 - ▶ Prohibits contractors from: soliciting residential property owners through prohibited advertisements; offering the residential property owner consideration to perform a roof inspection or file an insurance claim.
 - ▶ The lack of regulatory oversight has allowed contractors to use deceptive advertising through print, media, and verbal communications to entice property owners to file a claim.

Legislative Reforms

2022 SB 2A - Attorney Fees Awards in Property Insurance Litigation

- ▶ Provides that the one-way attorney fee provisions of §626.9373, F.S., and §627.428, F.S., are not applicable in a suit arising under a residential or commercial property insurance policy issued by an authorized insurer.

2023 HB 837 - Repeals §626.9373 and §627.428, F.S., Attorney Fee Awards - Expanded

- ▶ attorney fee statutes that apply to lawsuits filed by named insureds, omnibus insureds, or named beneficiaries against admitted insurers and surplus lines insurers.
 - ▶ In the days before the legislation became effective nearly 300,000 lawsuits were filed.
- ▶ New method for determining legal fees and who is responsible
 - ▶ If court awards less than 20% of the difference between insurance company offer and plaintiffs demand, plaintiffs pay all legal fees.
 - ▶ 20%-50% each side pays own costs
 - ▶ Over 50% insurance company pays all fees



"We **clearly** had a litigation issue going on in this state. This high disparity exists that ultimately everyone in the state is paying for, or has been paying for."

- Florida Insurance Commissioner Mike Yaworsky



Legislative Reform

Other notable changes

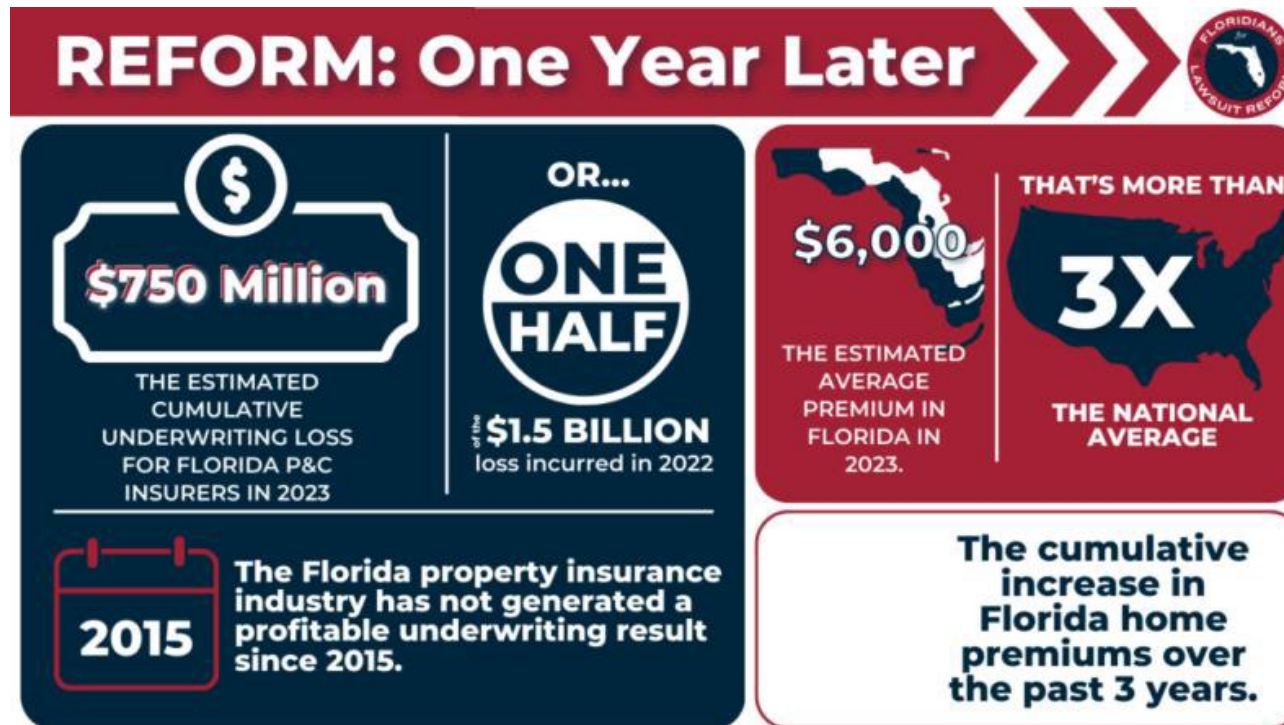
- ▶ Time to file a claim - 1 year for Hurricane, 2 years for all other.
- ▶ Attorney Fee Multipliers - to align with U.S. Supreme Court threshold of “rare and “exceptional” cases.
- ▶ 60-day Carrier Underwriting period
- ▶ Citizens Flood Insurance Requirements
- ▶ Citizens forced take-outs
- ▶ Citizens Increased Limits of Coverage - Pending
- ▶ Consumer Protection from Cancellation or Non-renewal with existing damage - Pending

Legislation Summarized

- ▶ The goal of recently enacted legislation was to stabilize the deteriorating property insurance marketplace.
- ▶ By removing incentives to file frivolous lawsuits and inflated claim demands optimism has returned and carrier outlooks are more positive.
- ▶ Further carrier insolvencies are not expected.
- ▶ Additional carriers and capacity are entering the market.
- ▶ If catastrophic event levels are at manageable levels the market is expected to continue to improve, offering more options to consumers over the next 12-24 months.

Whats Next?

- ▶ Insurance Carriers have reported reduced claim frequency and legal fee costs
 - ▶ Over the last 10 months the legislation has shown an ability to reduce fraudulent, frivolous, and excessive claims
 - ▶ The legislation has so far held up against challenges
 - ▶ Insurance carriers are optimistic about the long-term impact of the legislation



More Competition

- ▶ New Insurance Companies enter the Florida Marketplace
 - ▶ 6 new insurance carriers have filed for their certificate of authority
 - ▶ 2 carriers are actively writing new business
- ▶ Existing Insurance Companies are adding capacity, policy offerings, and expanding underwriting
 - ▶ Offering coverage on older homes

Citizens Insurance Company

- ▶ Citizens increased policy count to highest levels ever
 - ▶ From 419,000 policies in 2019 to a peak of 1,407,000 in September 2023
 - ▶ Citizens depopulation encourages private insurance companies to “take-out” policies from Citizens.
 - ▶ Rules implemented to discourage new policies being placed with Citizens
 - ▶ Flood insurance requirements
 - ▶ 20% rule
 - ▶ Maximum coverage of \$700,000
 - ▶ Increased underwriting criteria



Why Aren't Rates Decreasing?

- ▶ Many Factors influence insurance rates in Florida
 - ▶ Reinsurance
 - ▶ Increased storm activity and severity, both regionally and globally.
 - ▶ Inflation
 - ▶ Increased cost of capital, reduced outside investment
 - ▶ Increased construction costs
 - ▶ Litigation Cost

Summary

- ▶ Legislation enacted has changed the landscape in Florida, however it will take time to restabilize the marketplace.
- ▶ The insurance industry is optimistic, early indications are positive, and investment is slowly returning.
 - ▶ Investment in carriers and the reinsurance companies that support them is increasing, which will eventually allow for additional capacity and competition