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Opinion

Consumers need legislative fix to home repair scam

By Michael Carlson

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For three years, state lawmakers have received mounting evidence about a scam in which frazzled homeowners are unknowingly signing away their insurance benefits to shady vendors during home repair emergencies.

This spring's annual legislative session melted down with lawmakers again failing to enact reforms to address this scheme and protect consumers. But with the start of the 2016 legislative season just a few short months away, there's yet another opportunity and an urgency to act — because this problem is only getting worse.

Florida law permits a policyholder to assign the benefits of their policy to a third party, such as a contractor or other vendor, after a loss. The law was not intended to permit third parties to assert “ownership” of the claim and all the rights under the policy; it was intended to permit prompt payment by insurers to vendors for the work they perform.

However, in recent years, unscrupulous vendors — primarily water remediation and roofing firms — have systematically demanded broadly worded assignments from homeowners before agreeing to make repairs. Once the homeowner has signed away their policy benefits and rights, these vendors are inflating repair bills and working in tandem with a cadre of trial lawyers to file costly lawsuits against insurers — driving up the costs of property insurance for everyone. The problem extends to the auto glass repair business, where vendors solicit assignments from drivers to replace allegedly chipped or cracked vehicle windows — sometimes fabricating damage.

Prior to the intense 2004 and 2005 hurricane seasons, lawsuits over AOBs were almost non-existent. Since then, AOB lawsuits filed against Florida property insurers have skyrocketed nearly 1,000 percent, reaching more than 92,500 in 2013-14.

Nowhere is this playing out more visibly than at Citizens Property Insurance Corp., the state's property insurer. It is facing an explosion of water damage claims — absent any hurricanes — and AOB lawsuits. Three southeast Florida counties — Miami-Dade, Broward and Palm Beach — account for 96 percent of all the water litigation against Citizens.

In 2013, Citizens was hit with 1,397 AOB lawsuits. In 2014, another 1,526 AOB lawsuits were filed. In its June 23 annual rate filing, Citizens said it had an indicated need to increase rates 17.2 percent statewide and nearly 30 percent in southeast Florida due to water

damage lawsuits and other non-catastrophic claims.

Legislators have received plenty of warning signs pointing to AOB abuse. In two recent appellate opinions, courts have identified the AOB problem as a policy issue for the Legislature to resolve. Meanwhile, trial lawyers are holding seminars teaching vendors how to obtain AOBs from homeowners and maximize profits by inflating claims. In the Tampa Bay area, plumbers who are first on the scene to fix home water leaks are reportedly getting kickbacks as high as \$1,500 for making referrals to water remediation firms that obtain AOBs. Legislators heard testimony about homeowners who could not get home repairs completed after signing an AOB and whose policies were used to sue their insurance companies — without their knowledge.

In some neighborhoods in Central Florida, roofing companies are going door to door and offering gifts such as flat screen TVs and professional sports tickets to homeowners who agree to sign an AOB and file claims for hail damage — even though it is extremely rare to see hailstorms bad enough to damage roofs. In many instances, vendors obtain assignments without the knowledge of the policyholder's insurer and don't consult the insurer before making repairs.

State databases show there is a cottage industry of trial lawyers and vendors filing AOB lawsuits. This spring, one representative for the trial bar jokingly warned a House committee: "Don't tread on my AOB." That lawyer has personally filed more than 1,380 AOB lawsuits in the past two years alone, records show.

Reasonable reform bills were filed during the legislative session that would have reined in AOB abuse while protecting homeowners' rights. But they were defeated by the intense lobbying of the special interests profiting off this scheme.

Homeowners do not need to sign an AOB to get their home repaired or to direct their insurance company to make payments. If a home emergency occurs, the best thing a homeowner can do is contact their insurer immediately for guidance on what steps to take to remediate the damage and be made whole.

AOB abuse is real, it is growing and it must be addressed. Consumers should stay in control of the insurance policies they bought and paid for and not see them hijacked by a third party. Legislators must step in and stop this abuse in 2016, before it becomes a crisis like PIP or sinkhole fraud and before the next hurricane hits, causing this problem to explode out of control.

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