

I.I.I. Study Cites AOB Abuse for Increasing Insurance Costs In Florida

By the Insurance Journal:

<https://www.insurancejournal.com/news/southeast/2018/12/12/511654.htm> December 12, 2018

A new study released by the [Insurance Information Institute \(I.I.I.\)](#) finds that Florida's assignment of benefits (AOB) crisis has cost consumers billions of dollars in [unnecessary litigation and inflated claim costs](#) as the abuse continues to spread statewide.

"In Florida, abuse of AOBs has fueled an insurance crisis," the report says of the misuse of the policyholder protection known as AOB. "The state's legal environment has encouraged vendors and their attorneys to solicit unwarranted AOBs from tens of thousands of Floridians, conduct unnecessary or unnecessarily expensive work, then file tens of thousands of lawsuits against insurance companies that deny or dispute the claims."

The I.I.I. report says the AOB "mini-industry has cost consumers billions of dollars as they are forced to pay higher premiums to cover needless repairs and excessive legal fees."

An AOB is a document signed by either an auto or homeowners policyholder which allows a third party, such as an auto repair shop or a roofer, to seek direct payment from an insurer on a policyholder's behalf. In Florida, a policyholder is permitted to sign an AOB document without notifying their insurer or seeking the insurer's consent. The abuse has stemmed from the third parties with a signed AOB working with plaintiff's attorney to sue an insurer when the insurer disputes an inflated bill from the third party.

Authored by I.I.I.'s Chief Actuary James Lynch and Lucian McMahon, the I.I.I.'s senior research specialist, the study says there were roughly 1,300 AOB lawsuits statewide in 2000. By 2013, that number had jumped to more than 79,000, and to nearly 135,000 through Nov. 9, 2018, a 70 percent increase in just five years.

"We estimate Florida's auto and homeowners policyholders have paid about \$2.5 billion in insurer legal costs over the past dozen years, a troubling trend driven by plaintiff's attorneys who are abusing Florida's current AOB system," said Lynch. "That doesn't count the billions more in excess claim settlements that are at the heart of the problem."

I.I.I. notes that Florida's "one-way attorney fee" statute is the primary driver of the abuse. The statute allows a plaintiff's attorney who sues an insurer, and loses, to be under no obligation to pay the insurer's legal fees. But an insurer must pay a plaintiff's attorney's fees in the event the plaintiff prevails. As such, insurers will often settle lawsuits and pay slightly inflated AOB claims in Florida to minimize the insurer's legal fees, the I.I.I. said.

"As Florida's insurers are hit with growing legal costs and paying inflated settlements, they are forced to pass these costs along to consumers, the people required to purchase auto and

homeowners insurance,” the study says. “Floridians are paying more for insurance than they otherwise should be—often much more.

Advocates for AOB reform say state lawmakers must address the one-way attorney fee issue if the abuse is to be stopped.

The AOB system is most abused when it comes to three types of claims, the I.I.I.’s study reveals:

- Auto Personal Injury Protection (PIP): A person injured in an auto accident signs an AOB form and gives it to a medical provider, who then either overbills the auto insurer or sues them, or both.
- Auto Physical Damage: A person whose auto has a cracked windshield signs an AOB form and gives it to the repair specialist who is repairing the windshield. The repair specialist is now in a position to overbill the auto insurer and have their attorney sue if the insurer denies payment.
- Homeowners: A homeowner discovers damage caused by a leaky pipe and then signs an AOB form and gives it to the contractor who is repairing the pipe. The contractor then either performs needless repairs or overbills the insurer. If the insurer contests the necessity of the repairs, or the size of the bill, the contractor’s attorney sues the homeowners insurer.

“The [Florida AOB] statute is meant to level the playing field between individual policyholders and economically powerful insurers. In practice it has incentivized plaintiff’s attorneys to file thousands of AOB lawsuits because there is no limit to legal fees that can be collected,” according to the I.I.I.’s study.

Michael Carlson, president of the Personal Insurance Federation of Florida, said the I.I.I. study underscores the global problem with AOBs in Florida, and highlights the “pernicious effects of our one-way fee law on our justice and insurance systems.”

“It is well past time for the [Florida] Legislature to fix this problem,” he said, noting a bill addressing attorney fees – Senate Bill 122 – has already been filed for 2019 Florida Legislative Session, which begins in March.

Past efforts to enact reform AOB [have failed in the state legislature](#), but advocates for reform say they will continue to push state lawmakers to address the issue.

“This new report highlights the price that Florida’s hard-working families are paying because of unchecked AOB abuse and out-of-control litigation,” said Edie Ousley, vice president of the Florida Chamber of Commerce, which spearheads the [Consumer Protection Coalition](#). “We look forward to working with Governor-elect Ron DeSantis and the new leadership in the Senate and House to pass real consumer protections and put an end to AOB abuse during the 2019 legislative session.”

[Read the Full I.I.I. Study](#)