

# Contractors miffed at perception the Senate isn't hearing them on AOBs

**Critics allege shady contractors and lawyers use AOBs to launch unnecessary but expensive litigation.**

By: [Michael Moline](#) --February 6, 2019

Recent Senate hearings into assignment of benefits, or AOB, reform have left home restoration contractors frustrated at their inability to be much heard.

A Senate Banking and Insurance Committee [hearing](#) Monday evening included testimony from insurance carriers, regulators, and others critical of AOB agreements.

Restoration contractor [Josh Reynolds](#) made it only seven minutes into his presentation when committee chairman [Doug Broxson](#), a Gulf Breeze Republican, gave the floor to more critics.

They included a Clearwater couple complaining that an unscrupulous contractor had ruined their home. And then the committee ran into its 6 p.m. adjournment.

The day's testimony followed another 90-minute [hearing](#) in January in which AOB critics dominated. Broxson intends to schedule a vote on his own legislation to crack down on AOBs in two weeks. And he says he wants to hear fully from all parties.

Still, the contractors' lobby is worried.

"When they vote on the bill, that's typically when they have public testimony and that's it," said **Amanda Prater**, spokeswoman for the [Restoration Association of Florida](#), representing contractors who fix water damage.

"We will definitely ask whether we could finish our presentation before they vote. But I don't know how it's going to go," she said during a telephone interview Tuesday.

Meanwhile, the House Civil Justice Subcommittee [has scheduled](#) a hearing on AOBs on Thursday. Scheduled to speak are state Insurance Commissioner [David Altmaier](#), Citizens Property Insurance Co. chief [Barry Gilway](#), [Insurance Information Institute](#) expert **James Lynch**, and former Florida Supreme Court Justice [Ken Bell](#), now co-chair of the appellate practice at Gunster, who's conducted research into AOB litigation.

All testified before the Senate panel Monday — as did [Tyler Chasez](#), a plaintiffs attorney with Hale, Hale & Jacobson in Orlando.

"We didn't even get our 10-minute presentation," Prater said.

Broxson's bill ([SB 122](#)) attacks abuse of Florida's one-way attorney fee statute, which requires carriers to pay legal expenses of policyholders who sue them to recover benefits.

The critics allege that shady contractors and lawyers use AOBs to launch unnecessary but expensive litigation that drives up premiums for everyone — and that could drive insurers out of the Florida market.

The contractors have homeowners of their own whose testimony about battles with insurers that they want heard.

“We don't think that the bad actors in our industry are causing the amount of hysteria that they're talking about. Again and again, we've urged solutions for this,” Prater said.

“The much larger problem is that insurers are not paying their bills.”

During his time at the microphone, Reynolds, owner of Wrightway Emergency Services in Nokomis, noted that insurers as of last year paid his company only 23 percent of claims submitted on initial demand —down from 78 percent in 2013.

That left a tad more than \$3.4 million to be fought over in court, ending with 91 percent of the original claims paid.

Those numbers extend industrywide, he said.

“What do you think happens when a business gets 20 percent of its bill? They're going to pursue litigation to get paid,” Prater said.

“This is happening over and over and over again. And they won't let us show these data. They don't want to hear it. They don't want to see it,” she said.

“I don't know what we can say if there is no accountability being proposed for the insurance companies that are doing this.”

Reynolds argued that Florida insurers out-earn the national average, even if their net income declined since 2014. You'll find his and the other experts' presentations [here](#).

“Florida is well below the national average on paying out on their claims” despite “all this talk about how they're going to lose the state, they're hurting so bad,” Prater said.

“The statistics show that it's really not doom and gloom. Unfortunately, we feel like we're never able to share that. We're really only hearing one side of the story.”

The association's prescription for the ailment includes regulation of restoration contractors; better training for claims adjusters; “serious penalties” for contractors and carriers found guilty of fraud; and penalties for underpayment and delayed claims.

“We’re saying, ‘Regulate them.’ Right now, they’re not required to be licensed. Why is that?” Prater said of the contracting industry.

“If you don’t want to do regulations, why don’t you go after these people? Who are they? Name them, shame them. Use the fraud unit within DFS and other resources that you have to get rid of these people.”

Altmaier has argued that [Department of Financial Services](#) records don’t show a major pattern of consumer complaints against carriers.

Prater insisted that her people have provided plenty of data establishing a problem, and DFS records document “tens of thousands” of remedy orders against carriers.

“If that’s not a complaint, I don’t know what is. It specifically says in there what the insurance company did to violate the law by slow paying, short paying, delaying their payments.”

Policyholders would retain their personal right to sue under Broxson’s bill — they just couldn’t assign it to their contractors.

The bill constitutes a back-door attack on AOBs — one that would eliminate their usefulness, Reynolds said Tuesday.

“We know how to deal with the insurance companies; the homeowners don’t. And that’s what the carriers want. They want to be able to deal directly with the homeowners when they don’t understand the costs or what’s entailed or what needs to be done,” he said.

Reynolds believes his industry made a mistake in not involving homeowners and insurance agents in the struggle to get paid, so they don’t appreciate the stakes. Now, the association is attempting to recruit agents sympathetic to their cause to come forward.

“We’ve just started complaining to the (Office of Insurance Regulation) and filing civil remedy notices just in the past probably year or year-and-a-half,” he said.

The insurance industry’s campaign to steer policyholders to approved contractors doesn’t impress Reynolds — he has participated in such programs in the past and says they result in subpar work.

Meanwhile, “I’ve got \$6.6 million worth of work that we’ve completed and invoiced for, and we’ve received \$1.3 million out of that,” he said.

“We just can’t continue helping clients when we can’t get insurance companies to even interact with us and have a dialogue over claims.”

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