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Florida's AOB Abuse by the Numbers: 'Alarming Trend' Reaches Crisis Point

By [Amy O' Connor](#) | February 9, 2017

Assignment of benefits abuse has escalated over the last five years to the point where it is now a serious disruption to Florida's insurance market.

The abuse, [which is especially rampant in South Florida](#), stems from unscrupulous contractors and attorneys cashing in on homeowners dealing with a water loss, such as a burst pipe or roof leak. The "bad actors," as they have been dubbed by the industry, use an AOB to acquire the homeowners' insurance benefits, file inflated claims, and then pursue lawsuits against insurers when those claims are disputed or denied.

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Because of Florida's one-way attorney fee statute, insurers are left footing the bill for the inflated claim and the attorney fees.

"We believe the [one-way attorney fee statute] provides an extraordinary incentive for people to get into a dispute with the insurance company and inflate the claim so the company has to pay attorney fees," said Florida Insurance Commissioner David Altmaier at the Feb. 7 Florida Cabinet meeting.

The industry hopes this will be the year that the Florida Legislature addresses the problem.

AOB is [such a hot topic in Florida right now](#) that it dominated discussions on almost every panel and between attendees of the Florida Chamber of Commerce's Florida Insurance Summit held Feb. 1-3 in Miami. A glance at the numbers from various Florida sources tells the story of why:

- Frequency of water claims rose 46 percent and severity increased 28 percent between 2010 and 2015 (OIR 2015 Data Call)

- AOB property insurance claims totaled 28,000 in 2016, up from 843 in 2010 and 405 in 2006 (Florida CFO Jeff Atwater)
- Florida's Citizens saw a 30 percent increase in new lawsuits filed against the insurer between January and November 2016 (Citizens)
- 50 percent of Citizens' water-related claims resulted in litigation in 2016, up from 15 percent in 2011 (Citizens)
- As of October 2016, Citizens had 9,306 litigated claims pending and continues to receive an average of approximately 850 new claims per month (average of approximately 980 per month from August to October)
- In South Florida, the average AOB claim costs more than \$32,000, nearly triple the average of non-AOB claims (Florida Consumer Protection Coalition)

Non-cat water loss claims accompanied by an AOB are increasingly coming to insurance companies in the form of a lawsuit before the insurer has even seen the claim. Data from Citizens found that 76 percent of water loss claims in 2016 were submitted to the company in the form of a lawsuit, up from the 2.5 percent of litigated water claims in 2012.

Citizens CEO and Executive Director Barry Gilway said the average water damage claim is received by Citizens 50 days after the date of loss.

“We are not getting these lawsuits from the insured,” he said. “In many of those cases we have never even seen the claim, we’ve never had an opportunity to adjust it or received a statement of loss... it’s just ‘here is a lawsuit and a bill for \$30,000.’”

National homeowners' carriers have also seen a significant rise in the abuse in Florida.

“Assignment of benefits started out as a convenience for Florida residents, allowing them to sign over the benefits of their property insurance policy to a vendor to facilitate direct payment for repairs,” said State Farm Florida Spokesperson Michal Brower. “However, it has become a vehicle for fraud and claim build-up by some vendors escalating the scope and cost of remediation or repairs beyond actual damage to the home.”

“The effect that assignment of benefits abuse is having on the property/casualty insurance industry in Florida is extensive and if not addressed will ultimately be devastating to consumers. The abuse is not only fueling the need by insurers to seek rate increases to cover rising claims costs, it’s also likely to affect consumer choices in the future, as more insurers are forced to consider leaving the areas where the abuse is the heaviest,” said Liz Reynolds, State Affairs Director, Southeast Region of the National Association of Mutual Insurance Companies (NAMIC).

Industry Response

As the situation continues to deteriorate, insurers say they can no longer afford to just watch the trend and are instead taking action to ensure that the increasing frequency and severity of claims won't deplete their surplus and ability to pay claims.

According to the Florida Office of Insurance Regulation, nearly 73 percent of the rate filings received by insurance companies and approved by OIR were for a rate increase, largely because of AOB claims. *

Insurers are responding in ways other than raising rates, as well, including pulling out of certain areas of the state, filing for policy wording changes, and accepting fewer take-out offers from Citizens. The company has reached its [lowest policyholder count in its history](#), but there are concerns those efforts will be reversed if the AOB problem continues.

Citizens' Gilway has been one of the loudest voices in Florida on the AOB problem, first calling attention to the issue at [Citizens OIR rate hearing in August 2015](#).

Gilway says as a non-profit insurer, Citizens is in a unique position to bring attention to how the problem is really hurting the consumer and not just a way for insurance companies to raise rates so they can make more money.

"I don't have any axe to grind here. My bottom line is I feel very, very sorry for the insureds. They are getting ripped off by signing one of these things. Most of the time when they sign them, they are under duress," Gilway said.

Florida insurance companies are just starting to quantify the AOB abuse and its impact on their bottom lines. The industry has seen increased water loss claims and litigation, but hasn't necessarily been tracking the frequency of AOB with those claims. In [OIR's 2015 Data Call](#), only four companies were able to provide consistent indicators of AOB for the analysis.

Because private companies have not put forth concrete data like Citizens has, some have questioned if the abuse is as great as the industry has claimed.

Belinda Miller, chief of staff for OIR, said regulators have closely examined if the problem is an abuse of the system or if insurance companies are somehow complicit in the increased litigation. To reach that determination, OIR evaluated consumer complaints over the last five years and if they had increased at the same rate as lawsuits. Miller said that wasn't the case.

"The argument that maybe it's just the companies aren't doing a very good job and aren't paying when they should, we don't see any evidence of that," Miller said.

And as AOB costs insurers more money in claims, they can raise rates in response.

"Insurance companies pass through these costs," said Miller. "The insurance company can raise rates and keep paying. It doesn't necessarily mean they are going to make more money – they are going to pass these costs on to their policyholder."

***Correction: This story has been corrected from an earlier version to clarify that 73 percent of approved rate filings in 2016 were for rate increases. An earlier version of the story incorrectly stated that 73 percent of insurance companies operating in Florida filed rate increase requests for 2017. *Insurance Journal* regrets the error.**