

Complaints about 'complaints' roil AOB debate as legislation stalls

By Alexandra Glorioso 02/15/2019 05:00 AM EDT

TALLAHASSEE — When is a complaint not a complaint?

The question has insurers and home-repair contractors mired in a war of words as the Legislature debates how — or whether — to regulate a type of contract used widely by hurricane victims.

At issue are assignment-of-benefits contracts, in which homeowners sign over insurance benefits to the contractors they hire to fix water and wind damage after big storms.

Many policyholders say the contracts allow them to get work done without having to wait weeks or months for insurance claims to be processed. Tradesmen say the contracts ensure they get paid for their work by allowing them to bring [low-risk](#) lawsuits against insurance companies that slow or underpay them.

Insurers say AOB deals are a growing scam perpetrated by unscrupulous contractors and their lawyers to boost their bottom lines by overcharging for work at insurance companies' expense and then leveraging the one-way statute to settle out of court.

Defending AOBs, Amanda Prater, spokesperson for Restoration Association of Florida, which represents water contractors, last month [said](#) there were "tens of thousands of complaints against insurance companies for violating state law in their claims handling practices."

Her comment infuriated insurers — and their regulator.

It's a "false statement," said Office of Insurance Regulation spokesperson Jon Moore, "and an attempt to skew the reality of the situation."

The battle is more than semantic. Different complaint statistics paint different pictures about how responsive insurance companies are after a natural disaster, like a hurricane.

If homeowners are filing a lot of complaints against insurance companies, there's an argument for preserving AOB contracts. If they aren't, there's less reason to defend the arrangements.

Between 2013 and 2018, consumers lodged 7,682 complaints with the state against insurance companies, according to Moore.

But over a shorter time period, from 2014 to 2018, homeowners and their contractors filed 27,644 civil remedy notices against insurance companies, according to the Department of Financial Services.

Civil remedy notices are [required](#) when a party intends to sue an insurer and, as such, are a better indicator of insurer performance—or lack thereof—Prater said. Civil remedy notices not resolved in 60 days are likely to turn into lawsuits.

"We think it's going to go up as people wait longer and longer," Prater said. "What we're seeing on the ground is that a lot of people haven't been taken care of."

Insurers say CRNs are a sign of increasing litigiousness, not poor industry performance. The state insurance commissioner and insurance executives argue that because CRNs are submitted before a lawsuit is filed, they aren't consumer complaints but allegations involved in legal disputes.

Michael Carlson, president of the Personal Insurance Federation of Florida, said there's no conspiracy to delay or underpay insurance claims, calling the argument a "very good" media narrative pushed by Prater's group.

"We routinely receive invoices that are vague," Carlson said, when asked why insurance companies delay or deny claims. "As soon as we don't pay the full amount demanded, they litigate and that's how we get into these cases."

State Chief Financial Officer Jimmy Patronis has [urged](#) insurers to pay claims in full by March. He's said he believes slow processing by insurers leads homeowners to sign AOB contracts pushed by predatory contractors, who team up with attorneys to inflate claims and settle out of court with insurers.

He and the insurance commissioner argue property insurance rates are going up around the state because of the excessive AOB litigation. In 2018 alone, there were 16,890 AOB lawsuits related to home water damage.

State law gives insurance companies 90 days to pay or deny claims. That date has passed for claims opened immediately after the hurricane.

Since Hurricane Michael made landfall in the Panhandle on Oct. 10, homeowners and businesses have reported nearly \$5.6 billion worth of property damage and insurance companies have paid out \$4.1 billion in claims, according to DFS.

Policyholders submitted [144,314](#) claims after Michael but only 458 complaints, according to information released by DFS as part of a public records request. More than 80 percent of those complaints have been closed.

Five carriers have five or more open complaints: Olympus Insurance Co. with seven; FedNat Insurance Co. with six; and American Integrity Insurance Co. of Florida, Safe Harbor Insurance Co., and Security First Insurance Co. each with five.

American Integrity did not respond to an email seeking comment. Executives from FedNat, Safe Harbor and Security First said their company's complaint-to-claims ratio relative to Hurricane

Michael damage was 1 percent or less. A spokesperson with DFS said that ratio was consistent for insurance companies on average after storms.

Contractors say consumer complaints don't tell the whole story. Josh Reynolds, owner of WrightWay Emergency Services, said he started using assignment-of-benefit contracts in 2013 because he was having a hard time getting paid by the carriers.

Now, he always uses an AOB contract and frequently files civil remedy notices, which give insurance companies 60 days to resolve alleged violations.

"I would way rather settle this outside of court, versus having to wait months on end for the attorneys to rack up their fees," Reynolds said.

In 2013, Reynolds filed 16 lawsuits and had disputes with insurance over 22 percent of his claims that went to court. Last year, he filed 40 lawsuits and had disputes over 77 percent of his claims that went to court. In total, he's settled 326 lawsuits since 2013. He estimates over 100 lawsuits are in active litigation, where on average 80 percent of the claim is disputed.

"They are creating the fact that we have to have an AOB and sue them," said Reynolds. "Now these insurance companies are trying to say that we're the bad guys."

Reynolds says he sues less than 10 percent of the time, and he sues the same companies again and again.

At the top of Reynolds' list is Universal Property and Casualty Insurance Co., the state's largest residential insurer, which he said he has sued 110 times, followed by Security First Insurance Co. at 20 suits.

"UPCIC and Wright Way have worked together, especially over the last year, to establish a dialogue about claims in which they are involved," Travis Miller, spokesperson for Universal, said in an email. "This dialogue resulted in a reduction in the number of suits Wright Way filed in 2018 compared to prior years, and there currently is no pending litigation between UPCIC and Wright Way."

Reynolds agreed with that characterization and said he wanted to mend his relationship with other insurance executives if they would meet with him.

Locke Burt, chairman and president of Security First Insurance, said he could confirm just four lawsuits from Reynolds. He took issue with the claim that Security First would "deliberately" tell staff to "underpay people and slow-roll them."

"That is patently false," Burt said. "To us, the proof that there is no systemic program in place to delay people or underpay them is that 95 percent of claims are settled without a lawsuit."

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