



**CONSUMER  
PROTECTION**  
COALITION

**Assignment of Benefits (AOB)  
Media Coverage**

**Print/TV/Digital**

**January 2019-January 2018**



Assignment of Benefits (AOB) abuse related to property and auto glass insurance claims is expected to be a top insurance issue during the 2019 legislative session, based on its harmful impact to consumers.

AOB abuse was nearly nonexistent a decade ago but has spiraled into a statewide crisis that has resulted in rate increases for home and auto owners across Florida. Chief Financial Officer Jimmy Patronis, Insurance Commissioner David Altmaier and Citizens Property Insurance Corp. CEO Barry Gilway have described AOB abuse as a serious threat to the accessibility and affordability of insurance and have called upon lawmakers to take action to stop the abusive practices before the situation gets even worse.

The Consumer Protection Coalition has been advocating for AOB reform the past three years and applauds Sen. Doug Broxson for filing a bill early this session – SB 122 – that would address the awarding of attorney fees, which is fueling the abuse. Without action, AOB scams will continue to wreak havoc for consumers and lead to premium increases for years to come.

The following is a compilation of media coverage over the past year that underscores the problem and the need for reform. The CPC looks forward to working with lawmakers to pass commonsense laws to end AOB abuse.

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*The Consumer Protection Coalition is a broad-based group of professionals advocating for reforms to end Assignment of Benefits (AOB) abuse. Members include the Florida Chamber of Commerce, Florida Justice Reform Institute, Florida Roofing and Sheet Metal Contractors Association, Insurance Information Institute, National Association of Mutual Insurance Companies, Personal Insurance Federation of Florida, Property Casualty Insurers Association of America, Safelite Group Inc., Associated Builders and Contractors, Citizens Property Insurance Corp., Council of Property Claims Professionals, Florida Association of Insurance Agents, Florida Bankers Association, Florida Property and Casualty Association, Florida Realtors, Florida Refrigeration and Air Conditioning Contractors Association, Florida Retail Federation, Latin American Association of Insurance Agencies, National Insurance Crime Bureau, Professional Insurance Agents of Florida, Rytech and VetCor Services.*



## **AP Day: Jimmy Patronis seeks accountability for benefits scammers, identity thieves**

January 30, 2019

By Jacob Ogles, Florida Politics

Following questionable contractor practices after Hurricane Michael, Chief Financial Officer Jimmy Patronis wants laws to curb abuse of Florida's claims laws.

"The assignment of benefits process has become very deceiving," Patronis said. "We have a law on the books that is being legally exploited."

He labeled as scoundrels those abusing the claims process in Florida now. He said since Hurricane Michael made landfall, the Panhandle airwaves feature out-of-region contractors promising work on area homes.

But with work often done without insurance avenues already explored by homeowners, it's leading to more insurance companies refusing even to offer policies in Florida.

At The Associated Press annual legislative briefing, Patronis pounded on the problem and committed to helping lawmakers develop a solution.

"It is a law on the books that is being used in ways that are perverted," he said. "The intended use was to protect the consumer and give them greater access.

"What you have done is taken this law on the books with the assignment of benefits, and you've twisted it. You are doing nothing but driving up rates and driving out insurance carriers."

Patronis said families facing the loss of a home, likely the largest investment in their lifetime, end up signing all their claims benefits away on a promise a provider will solve their problems for them. It often doesn't work out that way.

But Patronis wants changes in the law that provide oversight.

Similarly, he noted Florida leads the nation in identity theft scams.

He'd like the state then to also impose the most severe penalties of any state in the union when violators get prosecuted.

"I had my own identity stolen during the campaign," he noted, so he takes the matter seriously.

He also called for greater accountability to crowdfunding sites like GoFundMe,

“We create not-for-profits out of thin air just because it makes a great narrative,” he said. But stories are proliferating about GoFundMe accounts that go viral, then founders — who face no accountability for how they spend the money — disappear with the cash.

As the state’s Fire Marshal, Patronis also said he would prioritize first responder safety this year. He noted that PTSD support for first survivors made it into law last year. He similar wants procedures implemented statewide that reduce exposure to toxic materials for rescue personnel.

Patronis said firefighters and first responders face a 15 percent higher chance of dying from cancer. Better precautions in handling of hazardous materials, he added, could reduce that.



## **Opportunities approach for reforming assignment-of-benefits insurance legislation**

January 29, 2019

By Clenn Minnis, Florida Record

Carolyn Johnson is hoping to seize the moment when it comes to reforming Florida’s assignment-of-benefits system.

“I think this is the perfect moment to strike on behalf of consumers across the state,” Johnson, Florida Chamber director of business economic development and innovation policy, told the Florida Record. “A lot more attention is now being focused on the issue and data clearly shows building evidence of consumers feeling as if they have been taken advantage of for far too long. Lawmakers are hearing a lot about that back in their home districts whenever they are there to interact with their constituents.”

Senate Bill 1168, aimed at addressing rising assignment-of-benefits concerns, passed in the Senate Judiciary Committee last year, but failed to go forward amidst concerns from business and insurance interests that it did not go far enough.

Even as Florida Sen. Greg Steube (R-Sarasota), who sponsored SB1168 and pushed forward on it, many of those who it figured to impact most continued to insist that it didn’t curb plaintiff lawyer abuses.

With Steube now no longer chairing the Senate Judiciary, many have circled the upcoming March 5 legislative session as a time that could signal the kind of change they feel is truly needed.

“I’m very optimistic that this is the year that we will get the kind of reform done that’s been a long time coming,” Johnson added. “There is definite agreement among a vast majority of people that there is a problem with abuses of benefits. According to the Department of Financial Services, there were over 34,000 lawsuits filed last year with assignment-of-benefits attached.”

Florida Justice Reform Institute president William Large argues the fact that more hasn’t already been done to address the issue is a testament to just how potent opposing forces truly are.

“The trial bar is a powerful lobby,” he told the Florida Record. “They have used third party vendors to speak for them. The third party vendors have, in turn, tried to make the insurance companies the bad guys. Efforts are being made to prevent the one way attorney’s fee from being assigned to third party corporate vendors.”

Currently, Florida state law allows homeowners who have suffered the likes of water damage to their property to assign their insurance policy rights over to third-party vendors, with one of the primary stipulations being that they make on-time payments and take on the responsibility of directly dealing with insurers.

Steube’s bill also sought to obliterate assignment-of-benefits contracts in instances where such requirements as assignees producing a copy of an AOB contract to the insurer within five days are not satisfied.

As it is, the Florida Record has previously reported property insurance rates have continued to spike with critics of the system largely attributing the increases to vendors charging insurance companies sky-high rates that essentially tie the hands of insurers.

But now, both Johnson and Large are optimistic that times may be on the verge of major change.

“Going forward, I’m very optimistic about consumer protection,” Johnson said. “We have been receiving and working with different organizations and hearing stories of consumers as part of a special coalition we’re building. We will continue to educate consumers whenever and wherever we can, as this legislation is a critical issue for them and we plan to continue to bring their concerns and fight to the forefront.”

When pressed with the question of if he believes new AOB reform legislation now has a chance of moving forward, Large keeps it direct and simple.

“Yes, I do,” he said.



## **Southeast Officials Focus on Curbing Fraud, Rising Auto Rates, Flood Insurance, Distracted Driving**

January 29, 2019

By Amy O’Connor, Insurance Journal

For the seventh year in a row, the Florida insurance industry, regulators, and consumer advocates will push for reforms to the state’s assignment of benefits issue that has now become an insurance crisis, according to a report from the Insurance Information Institute (I.I.I.)

“[Florida’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 report says of the misuse of the policyholder protection known as AOB.

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.

With rates rising and insurers pulling back in parts of the state where the abuse is most rampant, such as in South Florida, insurance leaders say the crisis must be addressed.

“The key issue at OIR [Office of Insurance Regulation] is the issue of AOB,” Florida Insurance Commissioner David Altmaier told attendees at the Florida Chamber of Commerce’s annual Insurance Summit in November. “It is an excessive litigation issue driven primarily by a loophole in the attorney fee statute ... [it] is being used to the detriment of consumers.”

Carlson said the key issue for the insurance industry “has always been the perverse incentive to game the system that is created by the one-way attorney fee law, which was intended to benefit specific categories of insureds, not any assignee.”

In previous sessions, bills to reform the statute have failed thanks to lobbying by the trial bar. But the industry is hopeful 2019 will be different.

“I believe that there is real interest in the Senate to finally and meaningfully address the AOB crisis that is hurting consumers in Florida,” Carlson said.

CFO Jimmy Patronis said Citizens Property Insurance Corp.’s filing for an 8.2 percent rate filing largely because of litigation and losses from AOB is evidence of why reform needs to happen this year for the sake of consumers.

“We need to bring everyone to the table—that includes insurers, attorneys, contractors, and state leaders—to find the best solutions to addressing this mounting problem,” Patronis said in a statement.



## **Senate prepares for ‘assignment of benefits’ insurance fight**

January 23, 2019

By Jim Saunders, The News Service of Florida

TALLAHASSEE, Fla. - A Senate committee plunged again Tuesday into a debate about the controversial insurance practice known as “assignment of benefits,” with the chairman vowing to resolve the issue after unsuccessful attempts in past years.

“We’ve got to own this issue once and for all,” Senate Banking and Insurance Chairman Doug Broxson, R-Gulf Breeze, said.

But with the issue pitting groups such as insurance companies and plaintiffs’ attorneys --- and with the key focus likely to be attorney fees --- expect a noisy fight over the next few months.

Assignment of benefits is a decades-old practice that involves insurance customers signing over claims to contractors, who do work and ultimately pursue payment from insurers. The issue has become controversial in recent years amid allegations by insurers that the system has become rife with fraud and litigation, driving up consumers’ insurance premiums.

Much of the focus has been on water-damage claims in South Florida for such things as busted pipes but also has extended to windshield-damage claims and now is spilling into the recovery in the Panhandle from Hurricane Michael.

State Chief Financial Officer Jimmy Patronis, who is from hard-hit Panama City, went before the committee Tuesday and implored lawmakers to address the so-called AOB issue. Patronis, whose office helps oversee the insurance industry, said he hasn’t limited his position to addressing attorney fees.

“I’ve had a call to action with the (insurance) carriers and I said, ‘Look, just do your job. As long as you are doing your job and you are fighting to make sure that our consumers are taken care of, then it makes it a lot easier to find where the bad actors exist,’ ” Patronis said, while discussing Hurricane Michael claims.

Broxson’s committee hosted speakers including Patronis, state Insurance Commissioner David Altmaier and Citizens Property Insurance Corp. President and CEO Barry Gilway. Other speakers were former Supreme Court Justice Kenneth Bell, who represents an insurance-industry group called the Personal Insurance Federation of Florida, and Orlando attorney Lee Jacobson, who represents the Florida Justice Association trial attorneys group.

Altmaier and Citizens officials have pointed to a spike in litigation about assignment of benefits for increased property-insurance rates. The Citizens Property Insurance Board last month, for example, approved a plan that would raise residential insurance rates by an average of 8.2 percent starting in September for customers of the state-backed insurer.

With the annual legislative session beginning March 5, the insurance industry and its supporters are focused on trying to limit attorney fees in AOB disputes. Broxson has filed a bill (SB 122) focused on fees, and Altmaier also backs taking action on the issue, telling the committee that litigation has “exploded” in recent years.

Bell acknowledged a “habitual battle between insurance companies and attorneys,” but he said the AOB debate involves a “significant problem that’s being caused by attorneys.”

But opponents of attorney-fee changes say assignment of benefits and the possibility of litigation help make sure insurers properly take care of claims.

“The assignment of benefits is the most mischaracterized, consumer-friendly tool that I’ve heard,” Jacobson said. “It’s a contract between two willing parties. It’s between the policyholder and his, her or its chosen vendor. They aren’t forced to sign this.”

## *South Florida* **Sun-Sentinel**

### **Bill aims to reduce home insurance costs by restricting attorneys' fees**

January 22, 2019

By Ron Hurtibise, South Florida Sun Sentinel

It’s time to prevent a handful of South Florida plaintiff’s attorneys from driving up home insurance premiums for everyone in Florida, three of Florida’s most powerful insurance officials told members of a key Senate committee Tuesday.

Chief Financial Officer Jimmy Patronis, Insurance Commissioner David Altmaier and Barry Gilway, president and CEO of state-run Citizens Property Insurance Corp. appeared at a meeting of the Senate Banking and Insurance Committee to urge enactment this spring of reforms aimed at quelling costly claims and lawsuits.

For six straight years, efforts to reach compromise on the issue have ended in stalemate between legislators loyal to insurers and trial attorneys.

But this year, insurers are more confident. Doug Broxson, a Republican representing the westernmost district of the Florida Panhandle, has taken over as committee chairman and filed a bill that takes direct aim at plaintiff’s attorneys’ source of income. Broxson succeeds Anitere Flores and Miguel Diaz de la Portilla, both of Miami, who refused to bring bills favored by the insurers up for votes during their stints chairing the committee.

Broxson announced early in Tuesday’s meeting that he planned to grind away until a resolution is reached.

“We’re going to deal with this issue this session if we have to spend every meeting of this committee [on it],” he said.

Failure to act will keep the number of lawsuits — and resulting insurance premiums — rising ever higher, said the three officials

The number of lawsuits involving residential properties against all insurers in Florida increased from 27,416 in 2013 to 82,663 in 2018, according to data presented by Gilway. And because litigation adds about \$25,000 to the cost of resolving a claim, Gilway estimated the additional 55,247 suits in 2018 cost all home insurance customers an extra \$1.38 billion in the form of higher premiums.

Until recently, South Florida homeowners have borne the brunt of those increases because most litigation involves properties here. But lawsuits are increasing throughout the state and more than 90 percent of Citizens customers statewide are facing rate increases next year, Gilway said.

Insurers say a small group of plaintiff's attorneys are driving up costs by exploiting a state law originally created to help consumers. The law reimburses legal fees for insurance customers that sue over a claims dispute and their insurer loses or agrees to pay any amount over the original offer, the insurance officials told the committee. Meanwhile, customers aren't at risk of paying their insurers' legal costs if their suits don't succeed.

The plaintiff's attorneys discovered they could use these protections to create large numbers of lawsuits — and a deep reservoir of legal fees, insurers contend. More than a decade ago, a single attorney began teaching repair contractors, usually roofers or water restoration contractors, how to convince homeowners to sign over their right to seek payment from insurers on an affidavit known as an “assignment of benefits.”

After securing assignments, contractors bill their insurers and their attorneys file suit if the insurer denies or refuses to pay the full invoiced amount.

Plaintiff's attorneys contend they wouldn't have to file so many suits if insurers didn't deny or underpay so many claims.

Broxson's bill would prevent the right to collect attorney fees under an insurance policy unless representing a named insured or named beneficiary and not when representing anyone “assigned or extended by agreement.” Broxson said Tuesday that he expects to amend the bill so it pertains only to property insurance and the auto glass portion of auto insurance.

Lee Jacobson, an Orlando-based attorney who spoke on Tuesday on behalf of the Florida Justice Association, a plaintiff's attorneys' trade group, later said enactment of Broxson's bill will force homeowners to sue insurers if their insurer won't pay. Contractors will be forced to file liens against homeowners to guarantee payment, he said.

Asked about the bill, Paul Handerhan, senior vice president of the Fort Lauderdale-based Florida Association for Insurance Reform, said he doesn't foresee “any scenario” in which Broxson's bill does not advance out of the committee. From there, it would go to the Judiciary and Rules committees before proceeding to the full Senate, and then merged with legislation from the House of Representatives, which approved its own bill in 2017 restricting attorneys fees.



### **Florida attorney general investigating Jacksonville roofing company**

January 11, 2019

By: Jenna Bourne, Action News Jax

The Florida attorney general's office is actively investigating a Jacksonville roofing company.

In a separate investigation, the owner of Kinnecorps LLC was arrested last month on charges related to his business.

Documents from state and local investigators show a pattern of fraud and forgery accusations.

As Hurricane Irma ripped through Northeast Florida, trees came toppling down on Maria Howell's roof.

Howell signed a contract with Kinnecorps LLC to fix it.

Her insurance paid the company \$5,704.82.

That was more than a year ago.

Howell's daughter Maria Rogers said Kinnecorps has not touched her mother's roof since it got the money.

Rogers has power of attorney for her 89-year-old mother.

When she took a closer look at some of the documents Kinnecorps' had sent her mother's insurance company, she said she noticed something strange.

"It wasn't my mother's signature on the documents," said Rogers. "This is a far-right slant and this is a left slant."

Rogers filed a complaint with the Florida attorney general.

"It wasn't my mother's signature on the documents," Maria Rogers tells me. "This is a far-right slant and this is a left slant." She isn't the only one to accuse a local roofing company of forgery. Now the company is under state investigation. I'm live at 6 [#ANJaxInvestigates](#)

That agency confirms it has an "active Consumer Protection investigation involving Kinnecorps," after receiving 10 customer complaints.

Several of those complaints come from people who said their elderly parents were duped.

"It's a lot to hold back the tears because, you know, my mother doesn't have the money to fix her roof. They stole her money," said Rogers.

Last month, Kinnecorps owner Roger Van Den Bosch Jr. was charged with grand theft, fraud and forgery.

It's not the first time he's been connected to a roofing company accused of taking customers' insurance money and not completing the work.

Multiple court documents show he used to work for Carlson Enterprises.

The Florida attorney general filed a lawsuit against Carlson Enterprises after a series of Action News Jax Investigations in 2017.

Over the past two weeks, Action News Jax has made three phone calls and sent four emails to KinneCorps, Van Den Bosch and an attorney representing KinneCorps in one lawsuit. We did not receive a response.

Action News Jax showed up to KinneCorps LLC's office and Van Den Bosch's home to get his side of the story, but no one came to the door.

If you believe you are a victim of any deceptive or unfair business practice, you can call the Florida attorney general's fraud hotline at 866-9-NO-SCAM (866)-966-7226) or file a complaint online at [MyFloridaLegal.com](http://MyFloridaLegal.com).

You can also [file a Florida Dept. of Business and Professional Regulation complaint here](#) or by calling 850-487-1395.



### **'I think we're there' on AOB reform, House insurance chairwoman says**

January 10, 2019

By Michael Moline, Florida Politics

Through two straight years of political stalemate over assignment of benefits reform, legislative leaders have declared it would take a crisis to deliver a bill to the Governor's office.

Finally, according to state Rep. Cyndi Stevenson, "I think we're there."

Stevenson, the new chairwoman of the House Insurance & Banking Subcommittee, spoke Thursday following the panel's first hearing of the year.

The Republican from St. Johns cited the repeated hits from hurricanes Matthew, Irma, and Michael, plus a trend toward increasing litigation costs widely blamed for driving insurance premiums higher.

"Assignment of benefits is eroding our ability to accumulate reserves to absorb these large events. That's not right. And to see that it's driving increases in people's insurance premiums, we need to address these things," she said.

That doesn't guarantee buy-in from the interests tussling over the issue — the insurance industry and regulators, the trial bar, and water-remediation contractors included.

"All I've heard so far is a lot of willingness to solve the problem that real people are experiencing in this area, from all parties," Stevenson said. "It's affecting all of our constituents."

Assignment of benefits, or AOB, agreements allow policyholders to cede their insurance contract rights to third-parties in exchange for quick repairs, and relief from the hassle of dealing with claims. Critics claim the contracts abuse these agreements to inflate repair bills and launch frivolous litigation.

Attorneys and contractors blame dilatory insurers for forcing litigation.

Christine Ashburn, chief of legislative and external affairs for Citizens Property Insurance Corp., provided evidence of the peril to policyholders.

Actuarial data support an average 25.2 percent premium increase for most people holding policies with Florida's insurer of last resort, depending on where they live, she told the committee — although Citizen's mandatory rate cap would limit that to 8.5 percent.

Controlling AOB-related litigation would cut the average hike to 10.1 percent, she said. Combining that with a requirement that policyholders let Citizens manage their repairs would shrink the increase to 1.5 percent.

In 2014, more than half of the premium levels approved by the Office of Insurance Regulation saved policyholders money, Insurance Commissioner David Altmaier said. By 2017, more than 90 percent raised prices.

AOB-related litigation volume, meanwhile, soared to more than 28,000 cases in 2016, compared to 405 10 years earlier.

Stevenson's Senate counterpart, Gulf Breeze Republican Doug Broxson, sees the state's one-way attorney fee law as the root of the problem for Florida's insurance market.

The statute requires to insurers to cover policyholders' litigation costs — a way of evening the playing field, but one that may encourage lawsuits by unscrupulous contractors and attorneys.

"It's certainly a major factor," Stevenson said.

"One-way attorney fees were meant to protect consumers when they're dealing with a large entity, like their insurance company, to make sure there's fairness. Now what we see is something completely different," she said.

"From the plain reading of the statute, it is not clear to me that it was ever intended to be used for third-party assignment. It's become a practice that's causing significant problems."

The committee certainly will take up additional lingering insurance-related controversies — reform of the workers' compensation and no-fault insurance systems, Stevenson said.

"But from what you heard today, I think there's a lot of consensus around the importance of resolving assignment of benefits."



## **New Senate Insurance chairman sets sights on ‘one-way’ attorney fees**

January 7, 2019

By Michael Moline, Florida Politics

The new chairman of the Senate Banking & Insurance Committee identified his primary legislative target Monday as the “one-way” attorney fee system, which critics in the insurance and wider business community blame for escalating premiums.

“If we deal with that, I think we’ll be dealing with the core issue that has been driving the rates up,” said Doug Broxson, a Gulf Breeze Republican.

The issue has arisen during the past two Legislative Sessions in unsuccessful attempts to pass bills attacking abuse of assignment of benefits, or AOB, agreements and Florida’s no-fault, or PIP, insurance and workers’ compensation systems.

Broxson discussed his priorities following the new committee’s first hearing, which centered on the response by regulators and the industry to Hurricane Michael.

That picture was mostly positive — Michael has generated nearly 144,000 claims worth nearly \$4.9 billion as of Friday, but the industry controls enough resources to cope, regulators said.

“The (consumer) complaints are not really high,” Broxon said.

“There are some problematic claims that we’re dealing with, but 70-something percent have already been dealt with, many of them (claims) closed. We’re on the right path to make sure that people are taken care of, and we’ve got the agencies that are going to do that.”

Aside from disaster response, Broxson listed his top priorities in this order: AOB reform; PIP; and workers’ comp.

To its critics, the one-way attorney fee encourages lawsuits designed to force settlements, driving up insurance premiums to reflect the costs of litigation. The law requires insurance companies to pay those costs for policyholders who sue, on the theory that they need help against the industry’s deep pockets.

The trial bar thus far has managed to block the Senate from passing legislation in all three areas, although the House has been friendlier to these bills.

The only vested interest Broxson cares about, he said, is “the people who elected us.”

“If we don’t answer this question and rates begin to go up ... we’re going to be accountable for what we let happen on our watch,” Broxson said.

“If we don’t solve this issue, it’s going to grow and grow and grow, and we’re going to have an artificial increase in rates based on a very small industry that’s driving the rates up.”

The attorneys involved, he said, represent “a very small segment” of the trial bar.

“This is a consumer issue. I’m going to encourage them to think about the thousands of people who will not be able to afford insurance. And that will have a dampening effect on the marketplace in Florida.”

As for workers’ compensation, rates jumped after Florida Supreme Court struck down limits on attorney fees in benefits challenges and increased benefits in 2016, but have fallen since then. However, the industry has warned that the full effect of those rulings has yet to be felt.

So what might move legislation through both chambers this year?

“We normally don’t take care of a problem until it occurs, and the problem with workers’ compensation has not arrived yet,” Broxson said.

However, he added: “It’s coming.”



## **Complaints about roofer highlight loophole in Florida insurance law**

*State CFO tells I-TEAM Floridians are exposed to criminal deception*

December 19, 2018

By Tarik Minor

**JACKSONVILLE, Fla.** - An I-TEAM investigation is exposing problems with one of Florida’s most controversial property insurance practices, the assignment of benefits, or AOB. The law allows a homeowner to sign over insurance claim rights and benefits to a third party, such as a contractor being hired to do repairs. However, the state’s chief financial officer said a loophole in the law exposes Floridians to criminal deception.

Maria Rogers and Eddie Albert are northeast Florida homeowners who said they both fell victim to the same roofing company and have felt helpless since their AOBs were signed.

“It’s heartbreaking because you pay a premium, you expect people to do good, you want people to do good, and this is how they repay you,” Rogers said.

“I’ve got a leaky roof, I’ve got mold in the ceiling, my office wall, my bathroom, and I can’t fix it myself without breaking the contract,” Albert explained.

Damage to Eddie Albert's roof

Albert, a Marine Corps veteran, told state investigators that his insurance company wrote roofing contractor Kinnecorps LLC a check for approximately \$9,000 in May 2018. Kinnecorps cashed the check the next day and was able to deposit it without Albert's signature. Albert said Kinnecorps also billed his insurance an additional \$4,500 for a mold inspection that was never approved.

Six months later, the mold is still there, his roof hasn't been touched, and he's legally bound by the AOB agreement.

"Right now, I've found another roofer, the roofer said he could have the roof on before Christmas," Albert explained. However, he said the AOB stated that if he broke the contract, he owed Kinnecorps 20 percent of the total claim or \$5,000, whichever is higher.

The owner of Kinnecorps LLC, Roger Van Den Bosch, was arrested Monday, charged with five felonies, including insurance fraud, forgery and grand theft. State fraud investigators said he's defrauded clients out of more than \$50,000 by taking payments, including money from insurance companies, and not doing the work.

Rogers also went to state investigators, telling them her family was a victim of Kinnecorps. She said the signature on an AOB form does not match the signature of her 89-year-old mother, who needed roofing repairs after Hurricane Irma hit in 2017.

Roof damage at the home of the mother of Maria Rogers

"To my knowledge, it was not signed by my mother, no," explained Rogers.

Rogers said Kinnecorps cashed her mother's \$5,700 check last year, and never returned to the home to start the roof replacement. She also hired an attorney who filed a civil lawsuit against Kinnecorps on her mother's behalf, for breach of contract, fraud and exploitation of a vulnerable adult.

Rogers had a simple message to other consumers about signing an AOB.

"Don't do it, it leaves the homeowners and businesses and consumers out of the loop," Rogers said. "They don't have any control of what's happening."

Jimmy Patronis, Florida's chief financial officer, told the I-TEAM that the solution for the state's homeowners must come in the form of new legislation.

"These guys have found a loophole in the AOB process," Patronis said. "They're being able to take advantage of homeowners, and this is the worst type of crime, you're literally, you're stealing and taking advantage of people when they're at the most vulnerable time of their lives. It's a sad state of environment we're in right now when it comes to this."

Patronis said he will be working behind the scenes with lawmakers to reform the existing assignment of benefits laws, or eliminate them altogether. He wants Florida homeowners to be protected by provisions like these and not victimized.

"I'm imploring to legislative leaders, I'd be happy to sit at the table. We'll get the insurance companies, we'll get the good contractors that don't like these bad guys coming in and taking advantage of situations and see what we can do legislatively to give consumers some protections," Patronis said.

Without reform, Florida Insurance Commissioner David Altmaier says consumers' insurance premiums could rise an average of 29.5 percent in Florida over the next five years.

"We cannot wait any longer to address the systemic abuse of AOB agreements which continue to threaten the pockets of policyholders across our state. I will continue to make AOB reform a top priority, support legislation that addresses AOB abuse, and fight to hold consumers harmless," said Altmaier.

On Wednesday afternoon, the CFO's office told the I-TEAM that because state investigators have opened up a case against Van Den Bosch, the two customers we interviewed can hire other contractors to repair their roofs and will be free from the AOB contracts.

Van Den Bosch's roofing license was issued by the city of Jacksonville's Construction Trades Qualifying Board. At the time of his arrest, an online license search on the city's website showed the license was still active. As of Wednesday afternoon, the license was inactive. The I-TEAM has reached out to the city to find out how the change transpired.

Van Den Bosch was being held on \$105,000 bond. He is due to return to court on January 9.

The I-TEAM has reached out to both Van Den Bosch and his attorney for comment, but they have not yet responded.

If you have issues with your homeowner's insurance carrier, you can contact the chief financial officer's office at 1-877-MY-FL-CFO (1-877-693-5236). State employees can walk you through any challenges you are facing, including handling mediation between you and your insurance carrier, at no cost to you.

If you have an issue involving Kinneccorps, you can file complaints with the following organizations and agencies:

- [Better Business Bureau](#)
- [Florida Office of the Attorney General](#)
- Florida Chief Financial Officer: Call 1-877-MY-FL-CFO (1-877-693-5236) and ask to file a complaint



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

December 12, 2018

By Insurance Journal

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.”



## **Regulators, Industry Seek to Keep Florida AOB Abuse In Check After Michael**

October 18, 2019

By Amy O'Connor, Insurance Journal

In an effort to keep the Florida assignment of benefits (AOB) crisis from further worsening in the state, Florida's insurance industry, regulators and consumer advocates are on high alert for AOB activity in the wake of Hurricane Michael and working to educate consumers on the pitfalls of signing over their policy rights.

“Consumers need all the information they can get to help navigate making repairs to their homes and vehicles, and we're working hard to provide resources to help prevent Floridians from becoming victims of AOB scams,” said Mark Wilson, president and CEO of the Florida Chamber of Commerce, which spearheads the Consumer Protection Coalition, formed in 2017 to tackle the state's AOB epidemic.

Recovery efforts are underway in the Florida Panhandle from the Category 4 storm that hit the region on Oct. 10, and with that comes plenty of opportunity for fraudulent activities, officials say.

“I’ve already heard of crooked contractors who are asking for cash up front and pressuring some to sign an assignment of benefits contract. Check with your insurance agent, insurance company, or call my office before you sign anything,” Florida CFO Jimmy Patronis warned in an Oct. 15 press release from the Department of Financial Services. “Storms bring out the best in people, but unfortunately, they bring out the worst in some. If it sounds too good to be true, it probably is.”

Florida’s AOB problem has stemmed from unlicensed water remediation and roofing contractors who have homeowners sign over their insurance policy rights in exchange for needed repairs to their homes, and then file inflated or fake claims with the insurer. When those claims are disputed or denied, these contractors file a lawsuit that insurers are often left footing the bill for.

Carriers across the state have seen an increase in litigation because of inflated claims, which is leading to increased costs for policyholders. According to the Florida Department of Financial Services, there were 405 AOB lawsuits across all 67 Florida counties in 2006, and by 2016 that number had risen to 28,200.

State officials have warned that the AOB issue could become even worse in the aftermath of a large-scale disaster, such as Hurricane Michael, due to a large number of claims triggering a contractor shortage, and people who are anxious to get repairs started on their homes assigning their insurance policy benefits to contractors.

Florida Insurance Commissioner David Altmaier said before Michael hit that scenario was one of his biggest concerns, and noted the quick handling of claims would help ensure people are not taken advantage of.

“At the end of the day, what we are primarily focused on with this region – and any region – is making sure consumers reach out to insurance companies as soon as possible and making sure insurers respond as expeditiously as possible,” he said.

Consumer awareness is now a key strategy of Florida regulators and consumer advocates, as AOB reform efforts have failed in the Florida Legislature for the last several years. The insurance industry will play a key role in stemming any abuse by educating policyholders on why they don’t need to and shouldn’t sign an AOB, as well as by responding to claims in a timely manner, officials say.

“I put Florida’s insurance industry on notice that I expect that they will be ready to serve Florida families after Hurricane Michael. We’ll do everything possible to protect residents throughout the entire post-storm process,” Patronis said in a statement before Michael made landfall.

But officials are doing more than just urging consumers and insurers to work together on their hurricane claims. During the 2017 hurricane season, the Department of Financial Services formed the Disaster Fraud Action Strike Team (DFAST) that consisted of three teams of insurance fraud investigators deployed to areas heavily impacted by Hurricane Irma.

Patronis said earlier this year that DFAST investigations stemming from the 2017 season resulted in the arrest of 22 alleged insurance fraud criminals and nearly 100 investigations were open and ongoing at the time.

Now, the fraud teams are deployed in areas impacted by Michael.

“... Anyone who tries to scam this community in the wake of Hurricane Michael will be found by my Disaster Fraud Action Strike Teams, who are already have boots on the ground,” Patronis said.

The Consumer Protection Coalition, which is made up of business leaders, insurance companies, consumer advocates and associations, also deployed resources to the Panhandle this week to warn home and auto owners of the dangers associated with signing an AOB contract to start repairs on damage caused by Hurricane Michael, the group said in a statement.

“The Consumer Protection Coalition is committed to helping residents get through the difficulty of putting their lives back together,” said Mark Wilson, president and CEO of the Florida Chamber of Commerce, which spearheads the coalition.

It has launched a multi-platform public service announcement campaign in Panama City and Tallahassee urging residents to contact their insurance agent or insurer first before signing any documents. The CPC also is educating home and auto owners at insurance claims villages in Panama City and Tallahassee and answering consumer questions about AOB abuse.

For its part, the insurance industry says it is ready to assist consumers with their recovery and is already in the area doing just that.

More than 44 insurers are currently on site at the Hurricane Michael Insurance Village in Panama City, Fla., and companies have fanned out across the Panhandle region to respond to their customers.

“Many Floridians suffered significant damage from Hurricane Michael, and insurers are in the field now helping policyholders begin filing claims,” said Logan McFaddin, regional manager for industry trade association PCI. “Insurers want to prevent policyholders from being taken advantage of by bad actors that prey on Florida storm victims. Unfortunately, events like Hurricane Michael often bring out greater numbers of those bad actors.”

Consumer Tips to Spot and Stop Post-Storm Fraud (Courtesy of the Florida Department of Financial Services)

1. Don't Sign Anything. Call your insurance agent, insurance company, or CFO Patronis' Insurance Consumer Helpline (1-877-MY-FL-CFO) before you sign anything, including assignment of benefits agreements.
2. Too Good, to Be True? It Probably is. If an offer sounds too good, it most likely is. Don't deal with anyone who demands cash up front.
3. Beware of Crooked Contractors. Beware of a contractor or restoration professional who: offered to waive or discount your insurance deductible; has received payment and has failed to provide

any repairs; offered to provide repairs at a cash-only discounted rate and has failed to provide repairs; or pressured you to sign an assignment of benefit (AOB) and has failed to provide any repairs to your home or stopped responding to your contact attempts.

4. **Verify.** Verify the identity of individuals claiming to represent government and relief agencies or insurance companies. Official personnel should display ID badges, should provide identification without hesitation. If you suspect that someone is impersonating official personnel, contact the local police department or sheriff's office immediately.
5. **Beware of Door-to-Door.** Imposters often go door-to-door claiming to be FEMA representatives, asking for money to assist with the filing of federal flood claims. FEMA does not charge for this service and does not go door-to-door in this capacity.
6. **Beware of Robocalls.** Imposters claiming to represent FEMA typically call consumers and ask them to hang up and dial a 1-800 number to make an insurance payment ASAP to prevent policy cancellations.
7. **Check a License.** If you have damage to your home or vehicle, contact your insurance company immediately. Beware of fly-by-night repair businesses and hire only licensed professionals. If you have access to internet, verify a contractor's license at the Florida Department of Business and Professional Regulation's website – [www.MyFloridaLicense.com](http://www.MyFloridaLicense.com).
8. **Check Liability Insurance.** Ensure contractors carry proper liability and workers' compensation insurance by checking the Department's Division of Workers' Compensation database



### **Homeowner goes without kitchen for months, blames assignment of benefits**

July 24, 2018

By Jackie Callaway, ABC Action News Tampa Bay

It's been 10 months since a pipe burst and flooded Clarkia Dennis's home near Riverview.

When we visited Dennis in June, the kitchen sat gutted and boxes of cabinets made it difficult to walk through her living room. The floor was bare concrete and waiting for new tile.

This retired school teacher blames her plight on the assignment of benefits clause her contractor suggested she sign. She says Dry Wizard pitched it as a way for her to not have to deal with her insurer. Paperwork and checks indicate Dennis's homeowner's policy paid out Dry Wizard close to \$28,000 between November and February. The company came in, tore out flooring and her kitchen but most of the work went undone.

We contacted Dry Wizard. They responded in an email. “What you may not realize is that Ms. Dennis did not finalize her selections until late April.” Dry Wizard also indicated it was working with Ms. Dennis’s attorney to get the matter resolved. Dennis showed us her handwritten notes indicating she picked out materials in January.

The cabinet installers arrived days after we contacted the company in June. Dennis says Dry Wizard finished all of the work the first week in August.

An assignment of benefits form allows the contractor to bill and collect directly from the insurance company and is often sold to the consumer as a convenience. But in hundreds of cases, AOB’s resulted in inflated claims and or unfinished work.

Over the past six years, lawmakers have introduced measures to curb AOB abuse but nothing has made it into law.

## FLORIDA WATCHDOG

### **Citizens’ CEO: AOB reform could slash insurance rates by 20 percent for a half-million homeowners**

June 18, 2018

By John Haughey, Florida Watchdog

Unless the state Legislature implements restrictions on assignment of benefits (AOB) agreements between property owners and contractors, Florida’s publicly owned property insurer could be litigated into imposing “dramatic” rate hikes on nearly a half-million homeowners.

Citizens Property Insurance Corporation President and CEO Barry Gilway said last week that the state-backed insurer of last resort will spend at least \$150 million this year in legal expenses related to water damage lawsuits in the wake of last September’s Hurricane Irma.

At least \$80 million of that will be spurred by AOB lawsuits, he said, adding, “There is no doubt in my mind that 60 percent of these are manufactured claims, what we call ‘mined claims’” orchestrated by 16 law firms in South Florida’s Miami-Dade, Broward and Palm Beach counties.

Gilway said during a governor’s cabinet meeting last week that Hurricane Irma-related lawsuits have increased Citizens’ litigation costs by 50 percent compared to 2017. He said Citizens is dealing with 13,500 pending suits with 1,250 new ones being filed a month.

He said 91 percent of AOB lawsuits stem from these three South Florida counties, where 51 percent of Citizens’ 440,000 – a number that is, again, increasing and could top 500,000 soon – policy owners reside.

“And this is just the costs of litigation,” he said. “This does not include the actual costs of the payments.”

Florida law allows property owners to sign over insurance benefits to contractors after a loss, such as those induced by a hurricane, to directly pursue payment for work.

AOB agreements are designed to expedite repairs to a damaged property by guaranteeing payment for “up front” work through a homeowner’s property insurance.

The controversial component of the AOB statute is its “one-way” attorney fee provision that, Citizens and private insurers maintain, is responsible for a landslide of lawsuits.

Under the “one-way” provision, even if an insurer wins a court ruling, it must pay its own legal costs. Citizens and private insurers maintain this “incentivizes” attorneys to convince contractors to file AOB lawsuits as standard business practice.

AOB litigation is a primary reason why Citizens is proposing double-digit rate increases in 2018 and foresees doing so annually until state lawmakers impose reforms.

Citizens estimates a homeowner’s insurance policy on a \$150,000 home in Broward County will increase from \$2,390 in 2017 to \$3,850 in 2018, and jump by \$6,000 above what it is now in Miami-Dade County in five years.

For the sixth consecutive year, proposed AOB reform bills failed in the Legislature during the 2018 session. Without legislative reform, Gilway said, the insurer can “only fix part” of the problem.

Starting Aug. 1, Citizens will offer a managed repair program that places a number of safeguards in the claims process. If policy holders opt into the program, there is no cap on valid damage claims. If not, damage compensation is restricted to no more than \$10,000.

Throughout the presentation, Gov. Rick Scott repeatedly asked Gilway to elaborate on potential reductions in rates if the “one-way” fee provision was eliminated and other AOB reforms were enacted by legislators.

“A 20 percent drop in rates?” Scott asked.

“That would be accurate,” Gilway said, noting 79 percent of pending claims are for water damage with the average claim – \$10,000 in 2011 – topping \$20,000 in 2017.

“Any relative reduction in legal expenses would affect rates dramatically,” he said.

The managed repair program “is the best Citizens can do until the Legislature takes action. Unless it is addressed by the Legislature, the problem is not going to go away,” Gilway said.

Gilway said while AOB claims are primarily concentrated in South Florida, it is “spreading across the state.”

# INSURANCE JOURNAL

## **Florida Restoration Contractor Arrested Over \$140K AOB Fraud Scheme**

June 13, 2018

Insurance Journal Staff Report

A restoration contractor company owner has been arrested over an alleged assignment of benefits (AOB) fraud scheme that impacted 19 homeowners in eight Florida counties and one Texas county, according to a statement from Florida Chief Financial Officer (CFO) Jimmy Patronis.

Timothy Matthew Cox, owner of Nationwide Catastrophe Services, Inc. and Restoration Response Services, Inc., is alleged to have stolen nearly \$140,000 for home repairs related to damages from tropical weather events that he never provided. As a result of Cox's alleged activity, the victims' homes sustained additional damage from significant weather events, including Hurricane Irma, the statement said.

The Florida Bureau of Insurance Fraud, a division of the Florida Department of Financial Services, found that Cox and his team targeted Brevard, Clay, Escambia, Flagler, Orange, Osceola, Seminole and Volusia Counties and Tarrant County, Texas.

These areas were impacted by tropical storms and hurricanes, and according to DFS, Cox is alleged to have pressured homeowners to sign an AOB contract to have damages repaired. Cox received \$139,444.97 from the 19 victims and their insurance carriers.

After receiving the insurance payments, Cox's team never started any of the work they were contracted to perform on the 19 homes, according to the statement. The payments made to Nationwide Catastrophe Services, Inc. and Restoration Response Services, Inc. were deposited into bank accounts controlled by Cox, who used the money for personal use, DFS said.

Cox was arrested and booked into the Polk County Jail June 5, 2018. He faces multiple counts of grand theft and racketeering and could face up to 30 years in jail. The case is being prosecuted by the Attorney General's Office of Statewide Prosecution.

"Criminals who prey on Florida families after a hurricane or tropical storm are some of the worst we see. This type of fraud has skyrocketed and impacts all Florida consumers," Patronis said.

He added that last year in the wake of Hurricane Irma, Florida's Disaster Fraud Action Strike Team was created to go after this type of fraud.

"With more than 100 ongoing investigations statewide, we are coming for anyone who takes advantage of our residents during vulnerable times," Patronis said.

When consumers sign an AOB they are granting their contractor or restoration specialist with the right to negotiate the insurance claim directly with their insurance carriers. This allows the contractor or restoration specialist to receive the consumer's insurance benefits directly from the insurance carrier.

Consumers who have experienced or witnessed this type of activity are encouraged to reach out to CFO Patronis' Fraud Tip Hotline by calling 1-800-378-0445. Callers can choose to remain anonymous.

THE DAYTONA BEACH  
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**Hurricane repairs contractor accused of bilking homeowners in Volusia, Flagler**

June 8, 2018

By Tony Holt, Daytona Beach News-Journal

A contractor who investigators say scammed 19 homeowners across Florida and Texas after promising and failing to repair their hurricane-damaged houses is sitting in jail on racketeering and grand theft charges.

Timothy Cox, 54, of Kissimmee, originally was booked at the Polk County jail, but was transferred Thursday to the Volusia County Branch Jail. He is being held without bail.

Volusia County sheriff's spokesman Andrew Gant said Cox was transferred because he had warrants out of Volusia.

The Investigative and Forensic Services, which is the law enforcement component of the Florida Department of Financial Services, handled the investigation. Department spokesman Jon Moore said Cox had stolen close to \$140,000 from 18 Florida victims and their insurance carriers. The victims were in Volusia, Flagler, Brevard, Clay, Escambia, Orange, Osceola and Seminole counties.

Officials said Cox also bilked one homeowner in Tarrant County, Texas.

Moore also said some of Cox's victims were people who had their homes damaged from Hurricane Matthew, a Category 5 storm which ripped through the region in October 2016 and caused billions of dollars in damage.

Florida Chief Financial Officer Jimmy Patronis said the crimes committed by Cox required "swift action" by his office.

"Hurricanes bring out the best in our volunteers and first responders, but it also brings out the worst and that's when we see the fraudsters and scammers prey upon vulnerable residents," Patronis said in a prepared statement emailed Friday to The News-Journal.

Cox is listed as the president of Nationwide Catastrophe Services Inc., based out of Orlando. The business was started in November 2005, according to the Better Business Bureau.

The company's review rating on the bureau's website is one star out of a possible five. It lists a total of 20 customer complaints and one negative review. Its rating on the website is an F.

A homeowner in Longwood told a local television news station in September 2016 that Cox, who had agreed to fix her hail-damaged roof, never showed up to do the work. He had collected nearly \$8,000 from her insurance carrier, according to the story.

Moore said Cox would solicit business from homeowners by offering an Assignment of Benefits agreement, which allows for a contractor to negotiate directly with the insurance company. It essentially takes the homeowner out of the deal so that the job can be done more efficiently. In the end, Cox collected the insurance money and left homeowners in the lurch.

Afterward, it would be incumbent on the homeowner to find another contractor and get the insurance company to pony up again, Moore said.

“It really harmed their ability to make themselves whole again,” Moore said of the targeted homeowners. “He took advantage of vulnerable people.”

Investigators concluded that Cox used the money for his personal use.

The case is being prosecuted by the Florida Attorney General’s Office of the Statewide Prosecution, an agency called upon to prosecute crimes that involve two or more state jurisdictions.

Moore said Cox is facing up to 30 years in prison if convicted.

Anyone else who has been defrauded by Nationwide Catastrophe Services is urged to call the state’s Fraud Tip Hotline at 1-800-378-0445.



### **Judge grants injunction against Jacksonville-based roofer**

April 26, 2018

By Jenna Bourne, Action News Jax

**JACKSONVILLE, Fla.** - For the first time, dozens of local victims are seeing action taken against a Jacksonville roofing company.

Action News Jax was the first to investigate Jacksonville-based roofing company Carlson Enterprises in October for accusations they took customers’ money and never fixed their roofs.

The Attorney General’s lawsuit shows the same pattern of problems Action News Jax has been exposing for six months: accepting customers’ deposits, not applying for permits to do the work, and never completing their roofs.

The lawsuit reveals for the first time just how much money Carlson Enterprises is accused of stealing from Florida homeowners: more than half a million dollars.

The Attorney General's Office has investigated 72 consumer complaints against Carlson Enterprises.

The judge froze the company's assets because the Attorney General's Office was worried Carlson Enterprises executives would hide the money, making it impossible for customers to get their deposits back.

The door is locked and the lights are out at Carlson Enterprises' Jacksonville headquarters.

It appears Carlson Enterprises' satellite offices in Daytona, Orlando, Tampa and Gainesville closed up shop too.

State records show Carlson Enterprises Chief Executive Officer Adolph Carlson and Chief Operating Officer Daryl Strickland started a new business, Kingfish Construction LLC, on Feb. 23.

Strickland and Chief Financial Officer John Carlson started Blue Water Builders Florida LLC on March 9.

The judge's order does not affect Kingfish or Blue Water.



### **Seminole County Sheriff's Office investigating roofing company**

April 25, 2018

By Louis Bolden, WKMG Orlando

SEMINOLE COUNTY, Fla. - The Seminole County Sheriff's Office is investigating a local roofing company after an elderly woman said the company collected money from her insurance company in 2016, but never even pulled a permit to start the job.

Company officials said it is still investigating with the insurance company for more money for the repairs.

Lucille Kellom, 81, has enjoyed her Seminole County home for nearly four decades, but she said none of those years has been as stressful as the last year and a half.

"I worry, when I go to bed. I can't hardly sleep," she said. "Because I am worried about my roof."

"That's a new spot right there," she said, pointing to a corner in the ceiling of her master bedroom.

The roof problems didn't just start, but have gotten progressively worse. In October 2016, Kellom contacted Day Roofing Inc. in Altamonte Springs. She signed an Assignment of Benefits allowing the company to deal directly with her insurance company.

It's something consumer advocates, such as Holly Salmons with the Better Business Bureau, recommend you don't do.

"Because it gives away so much of your power," Salmons said.

In November 2016, State Farm issued Day Roofing Inc. a check for \$11,429. The check was cashed, according to a claim statement, but a year and a half later, the roof is still in disrepair.

"What I would rather them to do is give me the money back and I'll get somebody else, because they're taking too long," Kellom said.

According to Kellom's contract, the total price for the roof was \$11,987.

Minus the \$11,000 already paid by State Farm, Kellom's balance is roughly \$558, according to the contract that was signed by Kellom and Yenifer Panizo-Reyes, who is the president of Day Roofing Inc.

Kellom said the company put up a tarp, but when more storms hit in 2017, it was the start of water inside the home, according to Kellom's son, Robert.

"Sometimes we have to put buckets here because the water is coming inside the home," Robert Kellom said of an area in a back living room.

News 6 legal analyst Steven Kramer said it's a scenario seen often around Central Florida.

"It looks like it is a situation where you've got a contractor taking advantage of a homeowner," he said.

According to public records, Yenifer Panizo-Reyes is the company president. When News 6 first contacted her, she set up an interview for a week later and said "she could explain everything." On the day of the interview, she said she didn't want to go on the record at the advice of her attorney. That was April 4.

News 6 called multiple times and went by the office to get a response. On Wednesday afternoon, News 6 returned to the office and asked for the status of Kellom's roof.

"Actually, basically if you release the whole news, basically if you talk to State Farm that's who should give you any information," Panizo-Reyes said.

News 6 did speak with a representative from State Farm, who couldn't comment on Kellom's claim specifically because of client privacy rules, according to the statement. In general, "If a contractor did not agree with our evaluation of the claim, then we are always open to review," according to the statement.

News 6 was asked to leave Day Roofing Inc., but previously we were told the company is still negotiating with State Farm and waiting for more money because the \$11,000 was not enough to repair the roof, according to Panizo-Reyes

"It becomes more difficult to say you're still negotiating when the money is sitting in your bank account," Kramer said.

"They said they were here to help me, but it seems like to they're harming me," Kellom said.

News 6 learned Day Roofing Inc. never even pulled a permit to start the roofing work at Kellom's home, according to the county's building department. The Seminole County Sheriff's Office confirmed it is now investigating to see if criminal charges are in order.

If you know anyone in the same situation, file a complaint with the state Department of Business and Professional Regulation, and call your local law enforcement office.



### **Consumer Protection Coalition releases new video in AOB fight**

March 26, 2018

By Peter Schorsch, Florida Politics

A coalition of businesses advocating for Assignment of Benefits reform released a new video Monday detailing the story of a Florida homeowner who was the victim of a shady contractor.

In the Consumer Protection Coalition video, Weeki Wachee homeowner Barbara G. details the 10-month saga she went through after finding a leak under her kitchen sink last year.

When she noticed the water damage she called up a water restoration contractor, who had her sign paperwork giving away the benefits to her insurance policy.

"Just sign this piece of paper and everything will be fine," she recalled the contractor saying. "I had never heard of an AOB – an Assignment of Benefits."

Barbara said the contractor didn't repair the sink, but tore her kitchen apart, breaking the sink, her countertops and ripping out her kitchen island and cabinets. By the time the insurance company arrived, all evidence of the original leak had been destroyed.

"We were never asked to pick the cabinets — we were given a choice of colors — but not the type or the depth of the cabinet, so I can't even fit a dish in," she said. "And we never knew what anything cost, they said it was not their policy to tell us what anything cost."

The final bill to the insurance company: more than \$36,000.

"This is up there in the top-5 of abuses that I feel that nobody should have to go through," she said. "In a home that you love that you cherish and people come in and they just make a mockery of everything that you've put in your home over a leak under the kitchen sink."

"It's abuse. It's out-and-out abuse."

The video ends by encouraging viewers to visit the coalition's website and to call their state lawmakers to "tell them to stop AOB abuse."

The Consumer Protection Coalition is spearheaded by the Florida Chamber of Commerce, and its membership includes business leaders, consumer advocates, real estate agents, construction contractors, insurance agents and insurance trade groups working to end AOB in Florida.

"Barbara's story is just the latest example of a Floridian who fell victim to AOB abuse," said Edie Ousley, vice president of public affairs for the Florida Chamber.

"As AOB abuse has grown and spread, more residents are stepping forward to share their stories and warn others about the risks of signing an AOB. These are honest, hardworking Florida families who are being hurt by loopholes in state law that the Legislature can fix."



### **Despite increasing assignment of benefits fraud, some see hope for reform**

March 20, 2018

By Carrie Bradon, Florida Record

TALLAHASSEE— A surge of assignment of benefits fraud has left Florida residents with higher rates for their insurance, and the Florida Legislature has let another year go by without enacting changes to stop such instances of fraud.

A category of fraud has appeared in Florida in the form of assignment of benefits water claims, which, though the complaint process is straightforward enough, the settlement is far from simple, as vendors and contractors have discovered a way to be paid out far more than their actual labor would cost.

"What a group of enterprising vendors figured out with the help of their own attorneys was they could get the insured to assign their insurance policy to them, and not only would they collect on the disputed amount, but they would collect on attorneys fees as well," William Large, president of the Florida Justice Reform Institute, told Florida Record.

The situation starts to get very complicated when the one-way attorney's fee right is added to the equation.

"Let's say there is a dispute over a repair, such a sink that began to leak in the kitchen and caused water damage," Large said. "The insured thinks that the insurer should have paid the \$5,000 in repairs. That case goes to trial, and if there is a finding that the insured won, not only do they get their \$5,000, but they'll get their fees paid, which will be a big number, about \$50,000 to \$60,000."

While the system is designed to help homeowners with the costs, the introduction of vendors taking on the policies of the insured has skewed how the Florida Legislature designed the process to be.

"The Florida Legislature believes that's fair because if an insurer is going to take on an insured, it might be a David versus Goliath situation, and we want to encourage insurers to pay claims," Large said.

"Third-party vendors are not asking to be paid; they're asking for an assignment to take place, and with it comes the one-way attorney's fee provision and they get to inflate the underlying repair and if it's questioned, there will be lawsuit and attorney's fees paid to their attorneys."

But the costs related to assignment of benefits fraud are affecting a much wider group than simply the insurance companies, explained Fred E. Karlinsky of Greenberg Traurig.

"The biggest loser in any type of fraud and abuse in the insurance system is the consumer, so in this particular case, rates are going up to pay for the bad acts of a few because there is no other option," Karlinsky told Florida Record. "The insurance companies don't benefit from high rates if that money is going out the door just to pay for fraud."

Karlinsky explained why the recent legislative session failed to address the issue and who was the blame.

"The governor and the CFO and the commissioner have all highlighted the issue; the House early on in session took up a bill that would have potentially had the effect of curtailing some of that fraud and abuse. The Senate had other ideas, they went in a different direction and ultimately the bill that the House passed was not taken up by the Senate," Karlinsky said.

Anaysa Gallardo Stutzman with Zelle LLP spoke to the progress and hope for reform of assignment of benefits-related fraud in the state of Florida.

"The Legislature, through the introduction of House and Senate bills, has been trying to enact some type of reform, but unfortunately the bills have either died in committee or have passed the House but didn't get further," Stutzman told Florida Record. "2018 is a big year. We have the primary elections in August and the general elections up in November. We have 20 seats up for election and retention in the Senate, and we have 120 seats up for election and retention exactly in the House of Representatives."

Stutzman believes the outcomes of the elections will have a great deal to do with what happens regarding assignment of benefits fraud.

"I think we might see a more aggressive approach next year; it all depends on who gets voted in, who gets retained and who gets what seats," Stutzman said. "But I think what we're going to see is the continual progression of trying to make some change and reform."



## **Lawmakers fight over ways to curb ‘assignment of benefits’ abuse**

March 8, 2018

By: Jackie Callaway

DAVENPORT, Fla. — Another legislative session ends with bills aimed at protecting homeowners from rogue contractors dying before the finish line. ABC Action News I-Team shows us the devastating downside of something called assignment of benefits and why lawmakers seem powerless to stop it.

Homeowners from Polk to Pinellas blame something they'd never heard of for upending their lives.

In Davenport, Darlene Masturzo's trouble started four months ago over a water damaged kitchen.

The contractor asked her to sign an assignment of benefits. The AOB gave him control over the repairs and her insurance claim. The business ripped out her entire kitchen and billed her carrier 30K for work done in her 500 square foot mobile home.

Florida Consumer Action Network's Deputy Director Bill Newton urges lawmakers to reign in AOB abuse.

14 months after Wendy Snellgrove spotted a leak under her sink and signed an AOB she and her husband are stuck.

The couple says only two hours passed between the time the contractor asked them to sign an assignment of benefits form to when his workers ripped out half her kitchen.

The Snellgroves say Synergy Property Restoration never provided a quote and hauled away the cabinets before an insurance adjuster could inspect.

The couple claims the contractor billed their insurer \$26,000 for a minimal amount of damage.

The Snellgroves filed suit against Synergy for damages and the company countersued for breach of contract.

We caught up with the owner of Synergy Property Restoration. He did not want to comment on the Snellgrove case or any of the lawsuits they've filed in Pasco or Pinellas Counties against insurers.

2018 marked the 6th straight year the House and Senate introduced bills to curb AOB abuse then failed to pass either.

House Representative Sean Shaw supports AOB regulation but he opposed the last house bill because it would force homeowners and contractors to pay the insurance company's attorney fees if they lose while trying to collect on claims in court.

Consumer advocates argue those who have to take the case to court when an insurer does not pay legitimate claims will not be able to get an attorney to take the case if they have to pay the insurers attorney fees.

A sticking point that has crippled progress on an issue that could cost every Florida homeowner in the form or higher insurance rates. AOB lawsuits increased from 20,000 in 2010 to 100,000 last year.

The benefit originally created to help homeowners handle claims needs regulating but for now no solution in sight.



### **Attorney, Vendor AOB Lawsuits Top Insurance Litigation in 2017: FJRI Report**

February 20, 2018

By Amy O'Connor, Insurance Journal

Litigation from the abuse of assignment of benefits by third parties represented more than half of all Florida insurance litigation in 2017, and without a legislative fix those fueling the abuse will continue to get rich at the expense of insurance consumers, according to the Florida Justice Reform Institute (FJRI).

In a new report that underscores the need for AOB reform in the current Florida legislative session, FJRI states lawsuits against insurance companies that involve an AOB increased 58 percent between 2015 and 2017. FJRI said insurance lawsuits with an AOB rose from 82,263 in 2015 to 129,781 in 2017.

Contractors and attorneys are blamed for abuse of AOB's, meant to be a policyholder benefit, by taking control of a homeowner's policy, inflating water or roof damage claims, and then suing the insurance company when it disputes the bill.

The explosion of AOB litigation is not just isolated to the homeowners insurance space. The abuse of AOBs is also happening on the auto glass side. According to the Florida Department of Financial Services, in 2006, approximately 400 auto glass AOB lawsuits were filed against auto insurers. In 2016, nearly 20,000 lawsuits were filed.

The insurance industry claims Florida's one-way attorney fee statute has fueled the abuse because it requires that insurers pay attorney fees if they are found to have underpaid a claim by any amount. The statute has created an incentive for an assignee to file suit against an insurer, the industry says.

FJRI, a nonprofit that advocates for judicial reform, agrees.

"Unquestionably, the cause of the AOB explosion is the no-risk proposition of attorney's fees, enabled by Florida's one-way attorney fee law and court cases that have extended it past its pro-policyholder intent," FJRI said in its report.

FJRI noted that AOB litigation is unique in that it has developed in a very “patchwork way.” Almost all property insurance AOB litigation in 2016 occurred in the Tri-County region of South Florida – Miami-Dade, Broward and Palm Beach counties. On the auto glass side, the Tampa Bay area had an “outsized proportion” of AOB lawsuits, FJRI said.

FJRI said its research into the development of AOB litigation found there is no “meteorological or other explanation for why pipes are bursting in Miami or windshields are cracking disproportionately in Tampa Bay.”

However, the report says, attorneys and vendor alliances, as well as coaching and vendor recruitment by attorneys specializing in AOB litigation, has helped to fuel the abuse statewide. FJRI noted that about a dozen attorneys contribute to a quarter of all AOB litigation in the state. The result? Increased insurance rates for everyone, FJRI said.

“It matters because everyone pays more in insurance premiums to make a handful of lawyers and vendors very, very rich,” the report states.

The timing of when Florida’s AOB litigation began to increase also coincides “very closely” with Personal Injury Protection (PIP) reform passed by the Florida Legislature in 2012, FJRI noted in the AOB report.

The 2012 PIP reforms sought to clamp down on alleged abuse and fraud with auto insurance by imposing a cap of \$10,000 for medical emergencies and a limit on non-emergency medical care to \$2,500 for car accident victims. The reforms also excluded payments to chiropractors, acupuncturists and massage therapists, and required accident victims to report an auto-related injury and seek treatment within 14 days.

“Anecdotally, we know that many PIP lawyers took their business model and developed relationships with other vendors, such as water remediators and auto glass shops, then applied the PIP template – assignments that transfer the one-way attorney fee – to property and auto glass coverages,” the FJRI report states.

Lawmakers are currently debating several options to reform AOB, but the bill currently making headway in the Florida Senate, Senate Bill 1168, does not address the one-way attorney fee statute and is favored by the trial bar and water restoration contractors.

The Florida House has passed a bill the industry supports, House Bill 7015, but the Florida Senate has yet to act on it. The industry says it would be the most effective at reforming AOB because of provisions addressing Florida’s one-way attorney fee statute. Another bill addressing auto glass abuse, Senate Bill 396, would allow insurers to require inspections of windshield damage before an auto shop can do the repair or replacement. That bill was making progress through the Senate but hasn’t moved since Feb. 1.

FJRI said if the Florida Legislature passes a “strong AOB bill which addresses the heart of the problem, losses will stop inflating costs, which will put downward pressure on rates.” But it emphasized that outcome is dependent on what the final legislation looks like and how strong it is.

FJRI said reform helped curb PIP abuse and led to rate decreases on PIP rates – before PIP reform in 2012, more than 85 percent of rate filings had increases; after 72 percent resulted in decreases or no change. Reform, FJRI added, also worked to significantly lower both medical malpractice and workers’ compensation rates in 2003.

“You can’t predict the future accurately when a host of variables are introduced,” the FJRI report states. “What we do know is this: legal reform works.”



### **Florida Regulator Report Shows AOB Abuse Worsening Statewide**

February 5, 2018

By Amy O’Connor, Insurance Journal

The epidemic of assignment of benefits (AOB) abuse that has been plaguing Florida for several years is only getting worse, says a new report from the Florida Office of Insurance Regulation (OIR).

The most recent data call of water or roof damage homeowners claims closed between Jan. 1, 2015 and June 30, 2017 shows the frequency of water claims per 1,000 policies has increased 44 percent since 2015 and severity has increased by 18 percent, according to OIR.

The report was released by OIR in early January and analyzed detailed information for 144,983 water claims from the top 25 homeowners and dwelling fire writers as of 2015.

OIR omitted information in the data call from Citizens Property Insurance Corp., which has borne the brunt of the abuse, stating the state-run insurer of last resort has submitted its own data that has already been examined and reported on.

OIR said Southeast Florida has the highest frequency of water losses, and the region experienced a 60 percent increase in water claims frequency during the two-year period. But the highest combined change in frequency and severity occurred in Central West Florida, where there was a 35 percent increase in claim severity between 2015 and 2017, underscoring how the abuse has spread from South Florida to other parts of the state in the last few years. OIR noted that all regions of Florida experienced significant increases in water losses.

When water loss claims are coupled with an AOB, the severity of a claim is generally at least 85 percent more, according to OIR’s data. Since 2015, OIR found the use of AOB’s has increased from 12.8 percent of water claims to 17 percent of water claims.

OIR concluded in its report that the increase in both the frequency and severity of water losses, the rising use of AOBs, and the acceleration of those trends over the last several years is “resulting in tangible consumer harm.”

“Absent any intervening changes in the way AOBs are being used today, it is expected that these trends will continue to deteriorate,” the report states.

Florida Insurance Commissioner David Altmaier took the release of the data call report as an opportunity to stress the need for lawmakers to enact reform during the 2018 Florida Legislative Session.

“Without a legislative remedy, this problem will lead to an increase in homeowners insurance premiums and lack of consumer choice as insurers stop writing or renewing policies in areas with high water losses,” he said.

Lawmakers are weighing AOB reform options in the current legislative session, which ends on March 9.



## **Florida Agents March on State Capitol in Lawmaker Push to Reform AOB**

January 25, 2018

By Amy O'Connor, Insurance Journal

Insurance agents from across Florida marched together on the state's capitol Wednesday to deliver a message to Florida lawmakers: It's time for assignment of benefits (AOB) reform.

Carrying signs that read “STOP AOB ABUSE,” about 125 members of the Florida Association of Insurance Agents (FAIA) were accompanied by representatives from the Florida Consumer Protection Coalition (CPC) as they carried their message from downtown Tallahassee to the Florida Capitol building.

“We are here with folks who see it every day,” said Jeff Grady President of FAIA, which represents about 2,000 property and casualty independent agencies in the state, in a video by CPC. “Rates are going up and coverages are becoming less. Consumers are losing because of the failure of the legislature to address AOB fraud.”

Contractors and attorneys are being blamed for abuse of AOB's by taking control of a homeowner's policy, inflating water or roof damage claims, and then suing the insurance company when it disputes the bill.

CPC, which consists of business leaders, consumer advocates, real estate agents, construction contractors, insurance agents and insurance trade groups pushing for reforms to end AOB abuse, has worked for two years to call attention to the problem. The march was the group's latest effort to get lawmakers attention after they have failed to agree on reform in the previous five sessions.

Barry Gilway, CEO of Citizens, the state-run insurer of last resort, also attended the march with a message for lawmakers. Citizens has faced the brunt of AOB abuse, particularly in South Florida. But Gilway says things are just getting worse.

“Here is the scary part, this used to be Southeast Florida problem – it’s not a Southeast Florida problem anymore, its spreading across the state,” Gilway said. “The ultimate payer in this situation is the consumer – it’s that simple – they will pay the price.”

Rates have already started going up for many Florida homeowners, but that’s just the tip of the iceberg, says the industry. Many insurers are also responding by refusing to write in certain zip codes or are tightening coverage offerings.

Citizens raised rates last year and was approved to do so again in 2018. The company has said policyholders should expect rate increases for the foreseeable future. Citizens also blames AOB for an expected increase to its policyholder count after several years of shedding policies to the private market.

Lawmakers have accused the industry of exaggerating the effect of the abuse and using it as an excuse to raise rates. But the numbers look to be on the industry’s side. A recent data call report from the Florida Office of Insurance Regulation (OIR) of water or roof damage claims from private insurers between Jan. 2015 and June 2017 found that the frequency of water claims per 1,000 policies increased 44 percent since 2015 and severity increased by 18 percent.

The use of AOB’s on water claims has increased from 12.8 percent in 2015 to 17 percent in 2017, OIR said. According to the Florida Justice Reform Institute, there has been a 300 percent increase in AOB lawsuits since 2010.

“This is not an emotional issue – just let the data speak for itself,” said Florida CFO Jimmy Patronis, who spoke to agents at a breakfast before Wednesday’s march and has also been vocal about the need for AOB reform.

Patronis urged lawmakers to act, saying the increase in AOB lawsuits is “a total exploitation of the law.”

“I hope the [legislature] will pass meaningful legislation that, at the end of the day, will keep insurance in the state of Florida as low as it can for our consumers,” he said. “It’s an issue that is going to potentially affect every insurance policy in the state of Florida if we don’t do something about it.”

Grady said the industry has tried to get that message across to legislators, but for the last five years it hasn’t been received. The industry is hopeful this year will be different.

“These folks are here firsthand with the experiences of their consumers to tell legislators to get this done,” Grady said.

For their part, lawmakers have been weighing several bills that would address the problem since the 2018 Florida Legislative Session kicked off earlier this month.

But which path lawmakers choose is a point of contention and concern for the insurance industry. So far the Florida House has passed a bill the industry supports, House Bill 7015, but the Florida Senate has yet to act on it.

The industry says it would be the most effective at reforming AOB because of provisions addressing Florida's "one-way attorney fee" statute. The statute, designed to be a policyholder protection for those suing an insurance company, has been the main source of abuse, the industry says, as an assignee can sue insurers over a claim and the insurers end up paying the attorney fees.

The bill, sponsored by Rep. Jay Trumbull, would chip away at incentives for third parties to sue insurance companies by awarding fees under a formula based on the judgement obtained by the assignee and the pre-suit settlement offer.

In a press release, the Consumer Protection Coalition urged the Florida Senate to take up HB 7015, which they said include "commonsense protections for consumers and modifications to one-way attorney fee rules."

The industry has also voiced support for Senate Bill 62, drafted by OIR and other stakeholders last year and reintroduced this session, but it has not had a hearing. Senate lawmakers let the current house bill die last year.

"The House has understood that consumers need this loophole closed, that there is fraud going on in AOB in Florida," said David Hart, executive vice president of the Florida Chamber of Commerce, a member of CPC and part of yesterday's march. "Consumers are long overdue for attention to this issue and this loophole to be closed."

Senate lawmakers have called for a guarantee that property insurance rates would go down if the industry's proposed reforms are enacted. The Florida Senate has shown preference for Senate Bill 1168 filed by Senator Greg Steube, which does not address the one-way attorney fee statute and is favored by the trial bar and water restoration contractors.

CPC said in a statement that it opposes that bill "because it does not go far enough to protect consumers and would not allow insurers to include litigation costs in their rates."

The industry appears to have consumers on their side of the issue this year, at least according to a poll by the Property Casualty Insurers Association of America (PCI) that showed 60 percent of voters surveyed say the current system for using AOBs in property insurance claims needs to be reformed.

"Let's keep the consumer number one in our mind. The same homeowners that I represent as an insurance agent [lawmakers] represent as a constituent, and we all ought to be working together regardless of the issue," said Doug Wiles, chairman of FAIA and president of Herbie Wiles Insurance Agency in St. Augustine, Fla. "But in particular now, to avoid these significant rate increases, to avoid degradation of coverage, to make sure that our homeowners insurance market remains healthy in the state of Florida."

# INSURANCE JOURNAL

## **Report Shows Florida AOB Abuse Worsening as Lawmakers Consider Reforms**

January 17, 2018

By Amy O'Connor, Insurance Journal

The 2018 Florida Legislative Session is underway, and lawmakers have wasted no time taking up legislation to address the assignment of benefits crisis plaguing the state.

While they debate which reform option to back, stakeholders say the Florida Legislature must do something this year to keep an already bad situation from getting worse.

The insurance industry, regulators, and consumer groups have tried unsuccessfully for five years to convince Florida lawmakers to reform the policyholder benefit known as AOB, which allows an insured to sign over their insurance policy rights to a third-party. The insurance industry has continued to call out what they call abuse of AOBs by vendors and attorneys who use an AOB contract to take control of a homeowner's policy, inflate a claim, then sue an insurance company that disputes the bill.

Evidence of that abuse is mounting in the form of increased litigation and insurance rates.

According to the Consumer Protection Coalition, a group of business leaders, consumer advocates, real estate agents, construction contractors, insurance agents and insurance trade groups fighting for reforms to AOB abuse, the number of lawsuits involving an AOB grew from 405 in 2006 to more than 28,000 in 2016 – an increase of more than 6,800 percent. Last year, 20,000 lawsuits were filed as of July.

But lawmakers have feuded with the industry over the right reforms to enact in previous years, and this year may not be any different.

The Florida Office of Insurance Regulation (OIR) has also repeatedly spoken up on the need for the Florida Legislature to enact reforms, and has highlighted its own evidence of AOB abuse, primarily fueled by attorneys, contractors, water mitigation firms and roofers. Now, OIR is saying that abuse is only getting worse.

In its most recent data call of water or roof damage homeowners claims closed between Jan. 1, 2015 and June 30, 2017 released last week, OIR found the frequency of water claims per 1,000 policies has increased 44 percent since 2015 and severity has increased by 18 percent. The report looked at detailed information for 144,983 water claims from the top 25 homeowners and dwelling fire writers as of 2015. However, the examination was open to response from all personal residential property writers.

OIR omitted information in the data call from Citizens Property Insurance Corp., which has borne the brunt of the abuse, stating the state-run insurer of last resort has submitted its own data that has already been examined and reported on.

OIR said Southeast Florida has the highest frequency of water losses, and the region experienced a 60 percent increase in water claims frequency during the two-year period. But the highest combined change in frequency and severity occurred in Central West Florida where there was a 35 percent increase in claim severity between 2015 and 2017, underscoring how the abuse has spread from South Florida to other parts of the state in the last few years. OIR noted that all regions of Florida experienced significant increases in water losses.

When these water loss claims are coupled with an AOB, the severity of a claim is generally at least 85 percent more, according to OIR's data. Since 2015, OIR found the use of AOB's has increased from 12.8 percent of water claims to 17 percent of water claims.

OIR concluded in its report that the increase in both the frequency and severity of water losses, the rising use of AOBs, and the acceleration of those trends over the last several years is "resulting in tangible consumer harm." The report states the escalating trends are leading to premium increases for almost all Florida homeowners, and reducing consumer choice as insurers cease writing or begin nonrenewing policies in areas with high water losses.

"Absent any intervening changes in the way AOBs are being used today, it is expected that these trends will continue to deteriorate," the report states. "This may cause availability issues as insurers struggle to control the rising costs and will result in higher homeowners premiums for all Florida homeowners."

Florida Insurance Commissioner David Altmaier took the release of the data call report as an opportunity to stress the need for lawmakers to enact reform this year, saying the results show a "clear sign that Florida is seeing an aggressive rise in the number of water loss claims associated with an AOB..."

"Without a legislative remedy, this problem will lead to an increase in homeowners insurance premiums and lack of consumer choice as insurers stop writing or renewing policies in areas with high water losses," he said.

So far, lawmakers have shown reforming AOB is a priority, but their approach on how to do so differs greatly between the Florida House and Senate.

Which path lawmakers choose is a point of contention and concern for the insurance industry. Key stakeholders, including trade associations representing insurers and consumers, as well as OIR, are backing a bill that was introduced and passed last year by the Florida House, and which the House already passed again this year.

Stakeholders say of the bills receiving lawmaker support so far, House Bill 7015 would be the most effective because of provisions addressing Florida's "one-way attorney fee" statute. The statute, designed to be a policyholder protection for those suing an insurance company, has been the main source of abuse, the industry says.

They claim the statute has been exploited by trial lawyers and vendors that obtain an AOB from a policyholder and litigate cases for substantial pay-outs because the statute mandates that attorney fees be paid by the insurer if a claim is found to have been underpaid by any amount.

HB 7015, would chip away at incentives for third parties to sue insurance companies by awarding fees under a formula based on the judgement obtained by the assignee and the pre-suit settlement offer. Under this formula, attorney fees could also be awarded to the insurer, or possibly no one, depending on the amount of the judgment.

Other key features of the bill, sponsored by Rep. Jay Trumbull, include:

Allows a policyholder to rescind an assignment agreement for any reason within seven days of signing;

Requires an assignee to provide a copy of the assignment agreement to the insurer within three business days after the assignment agreement is executed or the date of repair work begins;

Requires an assignee to notify the policyholder and the insurer that litigation against the insurer will be filed;

Requires an assignment agreement to contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee. If the estimate includes a claim for water restoration services, it must also include proof that the assignee or subcontractor of the assignee possesses a valid certification from an entity that requires water remediation to be performed to a standard approved by the American National Standards Institute.

Requires OIR to have insurers report data on trends in AOBs and related litigation. The industry put its support behind HB 7015 once it became clear that the bill the industry backed in 2017 would not be a contender this year. The bill, drafted by OIR and other stakeholders last year and reintroduced for this session as Senate Bill 62, was not given a hearing before the 2018 session started, effectively eliminating its chances of being passed.

Now it's up to the Florida Senate to decide if it will take up HB 7015, but many are not optimistic given that Senate lawmakers let the bill die last year.

The Florida Senate has shown preference for Senate Bill 1168 filed by Senator Greg Steube. That bill would not address the state's one-way attorney fee statute and would prohibit insurers from passing the cost of litigation in the insurance rate.

The bill also limits an insurer's ability to deny coverage because of fraud by an insurance applicant, and "further limit's the insurer's ability to properly adjust an AOB," said a statement by the Personal Insurance Federation of Florida (PIFF).

"While the bill includes some very limited consumer protections, the overall effect of this legislation will be increased rates, as insurers avoid the risk of litigation," said Michael Carlson, president of PIFF. "This will send a strong signal to the insurance marketplace that Florida is closed for business. Nothing could be worse for the average consumer."

The bill was on the Senate Banking and Insurance Committee's Jan. 16 agenda but wasn't considered.

Logan McFaddin, Property Casualty Insurers Association of America (PCI) regional manager, said getting any meaningful reform passed will be difficult again this year as the trial bar will try to kill anything that alters the state's one-way attorney fee statute.

"The bottom line is attorney fees are the number one issue," she said.