Insurance office, contractors row over meaning of 'civil remedy notice'

Part of the issue is what such a notice actually is.

By Michael Moline on February 9, 2019

The **Office of Insurance Regulation** is pushing back on a claim by a contractors' lobby that state records contain thousands of consumer complaints involving non-, late, or underpayment by Florida carriers.

A Florida Politics **story** published Wednesday cited **Restoration Association of Florida** sources' assertion that the Department of Financial Services, which fields consumer complaints, has perhaps "tens of thousands" of remedy orders against carriers.

The point was to refute Insurance Commissioner **David Altmaier**'s arguments that DFS records don't substantiate large numbers of consumer complaints.

Altmaier supports **legislation** (**SB 122**) targeting allegedly abusive litigation arising from assignment of benefits, or AOB, agreements between policyholders and contractors.

If, OIR spokesman **Jon Moore** said, the lobby was referring to civil remedy notices, its representatives misunderstand what those are.

So what are they? Notice to regulators that a lawsuit is planned involving insurance policies, Moore said.

"This is a classic case of someone who is providing blatantly false information to skew the reality of the situation that currently exists, as they have failed to keep the consumer at the forefront of their AOB discussions," Moore said via email.

"Their statements regarding civil remedy notices highlights a true lack of understanding of how civil remediation works, and they have only solidified what true consumer advocates have been saying all along; the overwhelming amount of unnecessary litigation associated with AOB abuse is rampant and is hurting consumers," he added.

In other words, Moore said during a follow-up telephone call, the assertion "makes our case, not theirs."

Association spokeswoman **Amanda Prater** insisted the point was well grounded. One doesn't sue if one is happy with a carrier, she said.

"These are discrete instances where the homeowner or an attorney representing a homeowner says their insurance carrier is operating in bad faith," Prater said.

For the record, the DFS **website** defines civil remedy notice as "intended for use by parties who are beginning the process of filing suit against an insurer, when a party feels they have been damaged by specific acts of the insurer."

State law requires parties to file these notices with the carriers and DFS at least 60 days before filing suit, and also to include the agency on service of process. The website makes clear that the agency never takes part in these disputes. You can see examples **here**.

Prater stressed that these notices involve more than simple breach of contract — they involve claims of bad faith, she said.

"A civil remedy notice is not required to be filed before a homeowner brings a cause of action for breach of contract," she said via email.

Such a notice "is far worse for the insurance carrier, in that it is a prerequisite for the homeowner to bring a bad faith cause of action."

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