

NEWS

Florida lawmakers eye expanding property insurance reforms to all types of insurance

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Over the past year, state lawmakers have made changes on paper through several attempts to cure Florida's property insurance crisis. But a homeowner in Florida who opens their annual renewal and sees their premium has increased, or finds out their carrier has suddenly dropped them, may not have noticed anything different.

That was the expectation, after all.

State Sen. Jim Boyd, R-Bradenton, noted during the first of last year's special sessions to address insurance that relief from any measures taken by lawmakers wouldn't be realized for at least another 18 months. That session took place in May 2022.

Since then, two hurricanes hit the state. Lawmakers then held a second special session on insurance in December. Six property insurance companies were declared insolvent last year. Citizens Property Insurance Corp., the state-run "insurer of last resort," continues to grow with more than 1 million policies.

More: Hurricane Ian is gone. Before the next storm, here are tips on how to review your insurance policy

More: The property insurance market was melting down. Then Hurricane Ian flooded Southwest Florida

And now the annual, 60-day regular legislative session is underway. The session is largely where party-line battles are taking center stage, but not insurance. And those homeowners with delayed or unfulfilled property damage claims may find their legal recourses slashed, owing to legislation approved in the special sessions to limit what the insurance industry and lawmakers said was too much litigation over property insurance claims and disputes between homeowners and their insurers.

The story remains the same as it was a year ago: it's lawyers, contractors and public adjusters versus lawmakers and insurance companies.

Some have lauded the measures passed in Tallahassee as necessary to lure insurance carriers back to the state and target the cause of the crisis, so-called "frivolous lawsuits." But others say that homeowners with legitimate damages are left with fewer rights to ensure they receive their claims, and are left wondering how, if at all, the measures will lower property insurance bills.

"Think of the people lined up on the side of the policyholders and the people who are lined up on the side of the carrier. What's been targeted? Every person that is helping the insured has been subject to scrutiny. Where do we have increased regulation of carriers?" said Amy Boggs, a St. Petersburg property insurance attorney who serves as chair of the Florida Justice Association's Property Insurance Section. "We see no reform for those folks."

What happened with Florida insurance reforms in 2022?

The current property insurance market is "still very volatile," said Mark Friedlander, spokesperson for the Insurance Information Institute. That really hasn't changed in a year. Premiums are high and there are few options to seek alternative insurers out there for homeowners, what's otherwise known as a "hard market."

The special session in spring 2022 focused on making sure insurance carriers could make it through the next hurricane season, said Gina Clausen Lozier, a Lake Worth Beach-based attorney who represents policyholders. That meant allowing \$2 billion of taxpayer money available to certain carriers otherwise unable to get less expensive reinsurance — essentially back-up coverage for insurers in the event of a major disaster — from global financiers, with the intent that savings would be passed onto policyholders.

Other measures included that homeowners must be notified that they, not contractors, must pay the deductible for roof damage and that homeowners with roofs older than 15 years can

get an inspection to determine its longevity, and their insurance carrier cannot deny them coverage if the roof has at least five more years of life.

More: Property insurance market in 'very precarious position' as hurricane season approaches

After the special session, state Insurance Commissioner David Altmaier expressed concern that ratings agency Demotech could possibly downgrade 17 insurance carriers in Florida, which has a direct impact on those carriers' ability to get reinsurance. Later that July, Altmaier announced a plan to allow downgraded companies to get reinsurance coverage through Citizens.

Then Hurricane Ian hit Southwest Florida and left a water-logged trail in its wake across the state in late September. Almost 500,000 residential property claims were reported. Half have been closed with payment and about one-third of the claims were closed without payment as of March 9, according to the Florida Office of Insurance Regulation. The total estimated insured losses for all lines of business reached nearly \$14 billion.

Mere weeks later, Hurricane Nicole struck Florida's east coast, resulting in over \$500 million in insured losses. As of Feb. 9, just under 35,000 residential property claims were reported. About 40% of those were closed with payment and another 40% were closed without payment.

Florida lawmakers held a second special session on insurance in mid-December. This provided another \$1 billion in hurricane reinsurance on top of the \$2 billion passed earlier that year.

Other items included:

- A shorter time frame for insurance carriers to pay or deny a claim, which Boggs noted that there are broad allowances to delay payment.

- Insurance benefits are no longer allowed to be signed over to a third party like a contractor.

- A policyholder with Citizens is no longer eligible to remain with the state-run insurer if the policyholder receives an offer that is within 20% of their current premium.

- All Citizens policyholders must eventually get flood insurance.

- A court must find a breach of contract before a policyholder can sue a carrier for bad faith.

Policyholders must report a claim within one year for a new or reopened claim, and within 18 months for a supplemental claim, down from 2 and 3 years, respectively.

Perhaps the biggest change was getting rid of one-way attorneys fees for property insurance claims. That means neither the policyholder nor the insurance company will be responsible for the other's attorney fees.

"Most people don't want to get involved in litigation. It's a long process. It's costly. The court system's backed up," Lozier said. "I believe most people would like to have a fair resolution of the claim. They're not looking for a windfall."

The attorneys who spoke with the Post said they support regulating unlicensed activity, but noted that the measures will not only have an impact on the industries involved, but also the policyholders.

"It feels like (policyholders) are being punished because they have a legal claim," Boggs said. "It's a dark day in Florida."

Both Lozier and Boggs noted that some homeowners feel they have no recourse but to take legal action when claims aren't paid.

"Both parties have to be accountable. If everyone does their job correctly, you're not going to go to a lawsuit because the claim would have been paid fairly," Lozier said.

Not having attorneys fees paid may give some homeowners pause in taking their insurance carrier to court over unpaid claims, especially those with smaller claims, she added. A more immediate solution for policyholders, rather than wait for the market, would be to pass mandatory rate reductions by insurance companies in tandem with these reforms, Boggs said, but no such measure was passed.

Now in the ongoing session, which ends in May, lawmakers are considering a tort reform package that expands the "no attorneys fees" provision to all lines of insurance, like personal and commercial automobile policies, worker's comp, life insurance and medical malpractice, Friedlander said.

But the House Speaker Paul Renner noted the bill would have changes before its final form, Friedlander said, "because they want to make sure it still leaves consumers with rights, and not take away rights in terms of the possibility of filing lawsuits when it's appropriate."

Some lawmakers are also pursuing ways to get rid of assignment of benefits in other situations, such as automobile glass replacement. Assignment of benefits is when a homeowner signs a document basically allowing contractors to conduct repairs and then bill the insurance company on their behalf. Other bills are targeting public insurance adjusters, people who provide assessments of damages independently of the insurance company, such as a provision that allows policyholders to cancel a public adjuster's contract within 30 days.

“These denials are going to come in and these underpayments are going to come in and everyone's going to wake up and realize that, ‘Wait a minute, why don't I have the ability to get fees, or why don't I have the ability to sue my insurance company? They didn't pay me for my damages,’” Lozier said. “I think it's going to be a rude awakening for a lot of people.”

All the while, the number of policies with Citizens has continued to grow month after month since 2020, and remained over 1 million since August. As of Feb. 28, there were 1.19 million policies with the insurer. There are 23 insurance companies on Florida regulators' watch list, Friedlander said.

What will be the effect on property insurance premiums?

Thousands of homeowners have been impacted by insurance carriers being declared insolvent. Current and former state lawmakers aren't immune.

United Property & Casualty Insurance Company, or UPC, was the latest to undergo this process in February. Slide Insurance, which opened for new business this year, acquired 91,400 of these policies.

At least one current and one former state lawmaker was dropped by UPC in this process.

State Rep. Spencer Roach, a Republican from North Fort Myers, tweeted on March 3 a photo of his UPC Insurance cancellation notice. “We must do more to address this crisis.”

That same day, he filed a bill that in part requires automobile insurance carriers to write homeowners insurance policies in Florida if they do so in other states, and that at least 5% of the business they write is homeowners insurance. Roach, who has also co-sponsored the six-week abortion ban and filed a joint resolution to make school board member races partisan, did not respond to an interview request.

“My premium went up 54% BEFORE Ian,” he wrote in another tweet.

Former state Rep. Matt Willhite, who used to represent the district that covered Wellington and was the ranking Democrat on the Insurance and Banking Subcommittee, was also dropped by UPC.

He was grateful to have had an insurance broker to place him with another private insurer, but recognized that not everyone can do so.

“But what’s the everyday Floridian doing out there that’s working hard every day, going to work Monday through Friday, 9 to 5, and trying to provide for a family?” he said. “What are they to do when they don’t have coverage, and they have a mortgage, and their mortgage company requires them to have insurance?”

He suggested a similar solution to what part of Roach’s bill proposes, to require insurance companies that write all other lines of business to also write homeowners insurance, and require a certain percentage of their business to be property insurance.

“There’s got to be some disincentives for these insurance companies instead of cherry-picking where they make their profits,” Willhite said.

“The legislature is not focused enough on this problem because it’s not getting any better and it’s not going away. Every day that they talk about bringing people here and how Florida is so free and growing and developing and all that, we’re putting more liability out there,” he added. “Hurricanes aren’t going away in the state of Florida, and the price of products and goods are going up. It’s just going to get worse.”

While they disagree on the cause of the home insurance crisis, Lozier, Boggs and Friedlander expressed doubt in how effective these measures would be in bringing down insurance bills.

The previous year-over-year average increase of premiums was 33%, Friedlander said. This year, the Institute is projecting over 40% average increases.

“To say everybody’s going to get their premium reduced, that’s not realistic, and we do not expect that,” Friedlander said, adding that bills are up everywhere in the country.

“Competitive markets will lead to better competition and better opportunities for consumers to get better rates.”

The measures passed will hopefully moderate the rate at which increases occur, not at 30%, 40% or 50%, he said.

“Homeowners in Florida are not going to be able to keep their homes if we continue to see rate increases at that level,” Friedlander said.

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