

# Assignment of Benefits

Board of Governors Meeting  
June 19, 2019

**House Bill 7065**, relating to insurance assignment agreements, passed the Florida Legislature on April 24, 2019 and was signed into law by Governor Ron DeSantis on May 23, 2019.

The bill is effective July 1, 2019 – except for ss. 627.7152(10), F. S. which became effective on May 24, 2019 with the signing of HB 337.

The bill requires that assignment agreements:

- Contain a provision allowing the assignor to rescind the agreement without penalty or fee within 14 business days.
- Contain a provision requiring that the assignee provide the insurer with a copy of the executed agreement within 3 business days after the execution of the agreement or work has begun, whichever is earlier.
- Include a written, itemized, per-unit cost estimate of services to be performed.
- Limit the use assignment agreements to \$3,000 or 1% of Coverage A under urgent or emergency circumstances.
- Prohibits assignee from charging fees or penalties for mortgage processing, rescission or cancellation of the agreement, or administrative fees to insureds.

The bill requires that an assignee has the burden to demonstrate that the insurer is not prejudiced if the assignee fails to:

- Maintain records of all services provided under the agreement.
- Cooperate with the insurer in the claim investigation.
- Provide the insurer with requested records and documents.
- Deliver a copy of the executed agreement within 3 business days or work has begun, whichever is earlier.

The bill requires, as a condition precedent to filing suit, that assignees must submit to Examinations Under Oath, participate in appraisal or other alternative dispute resolution methods.

The bill states that attorney fees may only be recovered by an assignee under s. 57.1045, F.S. or under the provisions outlines below:

- An assignee must give notice prior to filing a lawsuit and make a pre-suit demand.
- The insurer must respond in writing to the notice with a pre-suit settlement offer within 10 business days of receipt of the demand.
- Fees shall be awarded as follows if the different between the judgement obtained by the assignee and the pre-suit settlement offer is:
  - Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.
  - At least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees.
  - At least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.

If the insurer fails to inspect or provide authorization for repairs within 7 calendar days after the first notice of loss, the insurer waives its right to an award of attorney fees.

Insurers may make available a policy that restricts in whole or in part an insured's right to execute an assignment agreement if the following conditions are met:

- Must make available a policy that does not restrict post-loss assignment agreements.
- Restricted policies are available at a lower cost.
- The insurer notifies the insured annually of the coverage options available for post-loss assignment agreements.
- The insured must reject a fully assignable policy in writing or electronically.

- HB 7065 provides that Citizens may not implement a rate change in 2019 for HO-3 and DP-3 policies unless the rate filing reflects projected savings from the bill.
- The bill requires that the rate filing include an exhibit demonstrating the impact of the bill on the indicated rates for HO-3 and DP-3 policies.
- The bill also requires that Citizens provide policyholders with details on the projected rate savings from the bill.

## **Citizens Business Impacts Associated With HB 7065**

Develop a consistent interpretation of the Bill

- Required content of the assignment agreement for enforceability
- Excluded content of the assignment agreement for enforceability
- Contents of Notice of Intent to Initiate Litigation

Develop training and materials

- Claims Litigation, Defense Counsel and AOB team training materials
- Claims Litigation and Claims Legal AOB training
- AOB team training
- Defense Counsel training
- Development of Forms and Templates for litigation filed



## **Lines 237 – 241 of HB 7065**

*“An insurer must have a procedure for the prompt investigation, review and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code.”*

## Dedicated AOB team created for compliance

- Mandated with the following responsibilities to determine:
  - If the agreement is valid and enforceable
  - If the Assignee has met their duties
  - If the Conditions Precedent to Suit have been met
  - If the Assignor has met their responsibilities to be eligible to be included on the proceeds
  - If the Assignor is in good standing to file a Notice of Intent to File Suit

## AOB Team duties for time line compliance

- Inspect the property within 7 calendar days after the first notice of loss or provide written or oral authorization for repairs
  - Failure to comply waives the right to entitlement of attorney fees
- Respond in writing within 10 business days by making a presuit settlement offer or demanding appraisal

## AOB Team workflow design

- Process for routing new AOB's & Notice of Intent to File Suit
  - Mailroom
  - Scan/Fax
  - Email
  - Website
- Process for determining validity of AOB agreement
- Process for determining what constitutes an “*urgent or emergency circumstance*” as defined in the Bill
- Process for documenting that authorization for repairs were granted within 7 calendar days to remain eligible for Entitlement of Fees
- Process for determining if the Assignee has met the conditions precedent prior to filing suit
- Process for responding to a new Notice of Intent to File Suit
  - Demand Appraisal
  - Presuit Settlement Offer

## AOB Team workflow design

- Process for validating the judgement obtained as compared to the Presuit Settlement Offer to determine the Entitlement of Fees
- Deductible management changes to support multiple file ownership
- Parties involved changes to ensure appropriate parties are added to the check correctly
- Development of multiple claims correspondence letters for Bill compliance per section
- Development of time sensitive Claims Management System notices for Bill compliance
- Best Practices changes to include the AOB procedures

## Program Management and Process Support

- Develop structure around teams performing work
- Facilitate management of program scope
- Support cross-team communication dependencies
- Facilitate Steering meetings to ensure overall agreement of strategy and approval of documents and policies
- Ensure governance compliance to Enterprise processes for documentation and program communications and reporting
- Documentation of end-to-end process and key performance indicators

## Intake channels

- New online form (straight through processing)
- Enhancement of electronic and physical mail intake

## Claims Management System enhancements needed by July 1, 2019

- Intake system enhancements
  - Identification of AOB
  - Identification of Notice of Intent to File Suit
  - Flagging and routing to AOB team
- Development of AOB summary tab
  - Adjuster data collection for management of the AOB or multiple AOB's
  - Statutory data collection for future reporting
- Development of correspondence
- Creation of AOB email address with routing to the intake system
- Enhancements to the adjuster payment processing system for appropriate tracking of AOB payments

## Claims Management System enhancements needed by late July, 2019

- Correspondence loaded to the document production system
- Enhancements to automate triggers to generate correspondence
- Development of an AOB dashboard to facilitate the leadership of the dedicated AOB team



## Lines 286 – 294 of HB 7065

*“The Office shall require each insurer to report by January 30, 2022, and each year thereafter data on each residential and commercial property insurance claim paid in the prior calendar year under an assignment agreement. The Financial Services Commission shall adopt by rule a list of the data required, which must include specific data about claims adjustment and settlement timeframes and trends, grouped by whether litigated or non litigated and by loss adjustment expenses.”*

## Statutory reporting compliance development needs

- Time stamps
- AOB details for audit history
- Vendor details
- Financial details
- Incoming mail details

Data Warehouse modifications to support Actuarial and Corporate Analytics needs

Enterprise Performance Metrics dashboard to track program results

Rate and Product related system changes

Citizens Communications will produce and deliver the following communications prior to July 1, 2019

- Brief explanation of HB 7065 with details on how to submit the AOB agreement to all policyholders
  - Snail mail hard copy
  - Emails
  - Social Media
  - Citizens website

Brief explanation of HB 7065 with details on how to submit the AOB agreement to all known Vendors

- All W9's on file
- Mitigation Associations

# Exhibit 1 - Summary of Statewide Indications

Product Line - Personal	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
	Personal Lines Multi-Peril			Coastal Multiperil			Wind-Only			Total		
	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change
Homeowners	\$346,043,344	5.0%	1.6%	\$76,032,128	17.1%	5.3%	\$93,665,105	23.6%	8.2%	\$515,740,577	10.3%	3.4%
Renters	\$769,910	-22.5%	-13.4%	\$745,856	-6.7%	-5.2%	\$154,398	5.8%	5.5%	\$1,670,164	-12.8%	-8.0%
Condo Units	\$15,541,107	24.2%	8.3%	\$14,411,170	28.7%	7.9%	\$11,100,353	38.5%	8.0%	\$41,052,630	29.7%	8.1%
Dwelling -DP3	\$91,879,455	20.0%	8.5%	\$33,026,253	35.2%	8.8%	\$23,917,109	28.0%	7.4%	\$148,822,817	24.7%	8.4%
Dwelling - DP1	\$17,928,440	11.7%	6.0%	\$7,115,830	28.9%	8.8%	n/a	n/a	n/a	\$25,044,270	16.6%	6.8%
Mobile Homeowners	\$23,109,490	-0.1%	0.0%	\$2,867,584	19.1%	5.2%	\$3,217,390	29.9%	9.7%	\$29,194,464	5.1%	1.6%
<u>Dwelling Mobile Home</u>	<u>\$12,485,120</u>	<u>13.3%</u>	<u>7.8%</u>	<u>\$1,320,433</u>	<u>42.1%</u>	<u>9.2%</u>	<u>\$326,189</u>	<u>43.8%</u>	<u>9.5%</u>	<u>\$14,131,742</u>	<u>16.7%</u>	<u>8.0%</u>
Total Personal Lines	\$507,756,866	8.4%	3.3%	\$135,519,254	23.5%	6.6%	\$132,380,544	25.9%	8.1%	\$775,656,664	14.2%	4.7%

Product Line - Commercial	(1)	(2)	(3)	(7)	(8)	(9)	(10)	(11)	(12)
	Multi-Peril			Wind-Only			Total		
	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change
Commercial Residential	\$19,350,085	37.4%	5.2%	\$29,482,000	101.6%	10.3%	\$48,832,085	76.1%	8.3%
<u>Commercial Non-Residential</u>	<u>\$1,874,282</u>	<u>5.0%</u>	<u>5.0%</u>	<u>\$33,617,032</u>	<u>25.0%</u>	<u>10.0%</u>	<u>\$35,491,315</u>	<u>24.0%</u>	<u>9.7%</u>
Total Commercial Lines	\$21,224,367	34.5%	5.2%	\$63,099,032	60.8%	10.2%	\$84,323,399	54.2%	8.9%

Product Line	(1)	(2)	(3)	(7)	(8)	(9)	(10)	(11)	(12)
	Multi-Peril			Wind-Only			Total		
	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change	In-Force Premium	Uncapped Indication	Proposed Change
Personal	\$643,276,120	11.6%	4.0%	\$132,380,544	25.9%	8.1%	\$775,656,664	14.2%	4.7%
<u>Commercial</u>	<u>\$21,224,367</u>	<u>34.5%</u>	<u>5.2%</u>	<u>\$63,099,032</u>	<u>60.8%</u>	<u>10.2%</u>	<u>\$84,323,399</u>	<u>54.2%</u>	<u>8.9%</u>
Total	\$664,500,487	12.4%	4.0%	\$195,479,576	37.1%	8.7%	\$859,980,063	18.1%	5.1%

**Notes:**

(1), (4), (7) In-Force Premium at Current Rate Level

(2), (5), (8) Uncapped Rate Indications (includes FHCF Build Up Premium).

(3), (6), (9) Premium Impact after Capping (includes FHCF Build Up Premium).

$$(10) = (1) + (4) + (7)$$

$$(11) = [(1)*(2) + (4)*(5) + (7)*(8)] / (10)$$

$$(12) = [(1)*(3) + (4)*(6) + (7)*(9)] / (10)$$

# Initial Indication versus Updated Indication

<u>Product Line</u>	<u>In-force Premium</u>	<u>Uncapped Indication</u>		<u>Capped Proposed Change</u>	
		<u>Initial Filing</u>	<u>Updated Filing</u>	<u>Initial Filing</u>	<u>Updated Filing</u>
Personal	\$775,656,664	25.9%	14.2%	8.2%	4.7%
<u>Commerical</u>	<u>\$84,323,399</u>	<u>54.2%</u>	<u>54.2%</u>	<u>8.9%</u>	<u>8.9%</u>
Total	\$859,980,063	28.6%	18.1%	8.3%	5.1%

Updated indications reflect:

- HB 7065
- Two additional quarters of loss trend data
- Managed Repair Program

# Impacted Lines of Business

<u>Product Line - Personal</u>	Personal Lines Multi-Peril Policies			
	Uncapped Indication		Capped Proposed Change	
	<u>Initial Filing</u>	<u>Updated Filing</u>	<u>Initial Filing</u>	<u>Updated Filing</u>
Homeowners	25.2%	7.2%	8.5%	2.3%
Dwelling -DP3	36.9%	24.0%	8.9%	8.6%
Condo Units	27.4%	26.4%	8.3%	8.1%
Mobile Homeowners	3.3%	2.0%	1.5%	0.6%

- HB 7065 specifically directed Citizens to reevaluate the HO3 and DP3 indications
- In addition to these mandated lines, all lines of business and all causes of loss were reevaluated
- HO3, DP3, HO6, & MHO had a measureable impact from HO 7065 for the peril of water
- No other lines of business or perils were impacted

# Reflected Savings from HB 7065

	<u>Inforce Policies</u>	# of Decreases		% of Decreases		<u># of additional Policyholders receiving decreases</u>
		<u>Original</u>	<u>Updated</u>	<u>Original</u>	<u>Updated</u>	
Homeowners	164,621	4,494	45,392	2.7%	27.6%	40,898
Dwelling - DP3	85,663	2,821	4,169	3.3%	4.9%	1,348
Condo Units	34,902	533	1,254	1.5%	3.6%	721
<u>Mobile Homeowners</u>	<u>26,488</u>	<u>15,442</u>	<u>16,468</u>	<u>58.3%</u>	<u>62.2%</u>	<u>1,026</u>
	311,674	23,290	67,283	7.5%	21.6%	43,993

For HO3:

- For the 40,898 of policyholders receiving a decrease, the average savings is \$237
- Statewide average proposed premium has decreased from \$2,851 to \$2,687
- Statewide actuarially sound premium decreased from \$3,297 to \$2,816