

To: Lisa Wescott  
Senior Project Manager

From: Juan C. Rivera  
Internal Audit Manager

Date: November 10, 2022

**Subject: 2022 Special Legislative Session Implementation - 2022-MAS-12**

## **Background**

In May 2022, Governor Ron DeSantis signed Senate Bills 2D and 4D into law. These bills resulted from a special legislative session called by the Governor to resolve property insurance issues.

The following is a summary and overview of the fundamental changes created by the bills, as well as the actions that Citizens took to meet the requirements of these bills.

### **Senate Bill 2D**

#### **My Safe Florida Home Program**

The bill created a \$150M fund for Florida homeowners to obtain free hurricane mitigation inspections and provide them with a 2-to-1 matching grant program of up to \$10,000.00 for homeowners to make their homes safer and more resistant to hurricane damage.

#### **Prohibited Practices**

Contractors are prohibited from making written or electronic communications encouraging or inducing consumers to contact a contractor or public adjuster to make a property insurance claim for roof damages unless the communication includes specific requirements.

#### **Separate Roof Deductibles**

Insurers can offer a discounted policy with a separate roof deductible of up to 2% of the Coverage A limit of the policy or 50% of the replacement cost of the roof, whichever is lower. Insureds must be offered the option to opt out of the program by signing an OIR-approved form. The deductible does not apply in certain situations.

#### **Reinsurance to Assist (RAP) Program**

Creation of a \$2B layer (on a reimbursement basis) of reinsurance for hurricanes, which falls directly below the mandatory layer of the Florida Hurricane CAT Fund (\$8.5B for the 2022-2023 contract year). This program requires all eligible insurers to participate.

## **Roof Age**

Insurers are prohibited from denying a claim solely based on the age of a roof if it is less than 15 years old or is determined to have at least five years of remaining useful life.

## **Claims Adjustment / Handling**

Insurers must conduct a physical inspection of the property within 45 days of receiving a proof of loss statement unless the claim is for hurricane damages. Also, insurers must notify policyholders of their right to receive any detailed report/estimate developed by the adjuster and must provide such within seven days of the request or the completion of the report, whichever is later. Insurance companies must provide policyholders with a reasonable explanation of the decision if there is a difference between the claim payment and the estimate.

## **Bad Faith Lawsuits**

In certain situations, claimants must establish that an insurer breached the insurance contract to prevail in a bad faith claim for extra-contractual damages.

## **AOB Claims / Attorney Fees - AOB**

The definition of “assignment agreement” was revised to include assignments executed by a party that inspects the property and to clarify that public adjuster fees are not an “assignment agreement”. The NOI requirement before an AOB suit is filed was also clarified.

A valid AOB is now required to specify that the assignee will hold harmless the assignor from all liabilities, including attorney fees, as the bill prohibits the assignment of the right to obtain attorney fees in AOB claims. As such, assignee vendors will no longer be able to recover attorney fees in suits against insurers.

## **Fee Multipliers**

The bill introduced a new standard for awarding an attorney fee multiplier in property insurance litigation by creating a presumption that, in property insurance cases, attorney fee awards based on the Lodestar methodology are sufficient and reasonable. Attorney fee multipliers may only be awarded under rare and exceptional circumstances with evidence that competent counsel could not reasonably be hired.

Also, courts can award attorney fees and costs associated with securing a dismissal without prejudice if the plaintiff failed to file an NOI (created by SB76).

## **Insurer Regulation**

The bill created the Property Insurance Stability Unit, which scope is limited to homeowner and condominium unit owner insurance and who will be responsible for the detection and prevention of insurer insolvencies. The OIR will monitor, analyze, and report on insurer insolvency issues and must publish orders, data, and reports issued by the unit.

## **Senate Bill 4D**

### **Roof Compliance**

If a roof was built, repaired, or replaced in compliance with the 2007 Florida Building Code or later, only the part being repaired, replaced, or recovered must be constructed in compliance with the Building Code in effect at the time if at least 25% of the roof is being repaired, replaced, or recovered.

### **Condos**

Requires an inspection every ten years for each building of a condominium three stories or higher and has reached thirty years of age or if the building is near a coastline and has reached twenty-five years of age.

### **Objectives and Scope**

Internal Audit monitors the implementation of changes identified and developed by Management as necessary to comply with the requirements of Senate Bills 2D and 4D.

### **Results**

A Special Legislative Session workgroup, comprised of members from several Citizens' business units, was created to analyze the bill, establish work plans, and determine the business and technical changes required to meet the bills' requirements. The workgroup effectively escalated and discussed issues as they were identified.

Regarding Bill 2D, the workgroup identified several sections impacting Citizens' business units, some of which are pending the outcome of discussions with the Florida Office of Insurance Regulation (OIR) and presentation before the Citizens' Board of Governors (BOG).

At this time, the details of the RAP Program and its interface with Citizens as the insurer of last resort are being discussed with the OIR.

Concerning the new roof deductible and remaining useful life sections of the bill, potential system changes for PolicyCenter and ClaimCenter have been identified. The need to meet with the OIR to review and discuss the proposed wind/hail deductible (rather than a roof deductible) was also determined. These changes are scheduled to be presented in the December 2022 BOG meeting. Pending the outcome of the discussions and the presentation to the BOG, any changes adopted will potentially require updates to the Claims Best Practices, additional training, and system changes for the Claims operation to correctly apply the deductible.

Other changes, such as the insurer's right to recover attorney fees under certain circumstances, have been identified as requiring strategies for defense counsel awareness and implementation. Some changes taking effect in January 2023 (i.e., the insured's right to estimate) have been identified as requiring a review of the Claims' Best Practices and training.

Concerning Bill 4D, only the roof compliance section was identified as impacting the Claims operation. While Claims was already in compliance, claims staff was notified of the change, and the new rule was covered in training.

With the next workgroup meeting scheduled for November 8, 2022, and the BOG meeting planned for December 7, 2022, we will continue to monitor the progress of the changes and will report the results as they are implemented.

CC. Barry Gilway, Chief Executive Officer  
Kelly Booten, Chief Operating Officer  
Christine Turner Ashburn, Chief of Communications, Legislative & External Affairs  
Jennifer Montero, Chief Financial Officer  
Jay Adams, Chief of Claims