

CitizensAdvisor



Litigation and AOB continue to drive rates higher in 2019

TALLAHASSEE, FL – Litigation and assignment of benefits abuse are the key drivers behind Citizens Property Insurance Corporation’s 2019 rate recommendation, which call for rate increases for nearly all Citizens policyholders.

Despite Citizens’ initiatives to reduce litigation and costs for nonweather water losses, the Office of Insurance Regulation is being asked to approve recommended rates for 2019 that call for a statewide average increase of 8.2 percent for personal lines policyholders – homeowners, condominium owners and renters.

If approved, the rates will be effective for new and renewal policies beginning September 1, 2019. Citizens is required by law to recommend actuarially sound rates while complying with a legislative glide path that caps rate increases at 10 percent, excluding coverage changes and surcharges.

Since 2013, Citizens has experienced a surge in nonweather water losses – broken pipes, leaky washers, etc. – and litigation surrounding those nonhurricane related claims, especially in South Florida. Such losses have forced the state’s insurer of last resort to dip into surplus for each of the past four years, a trend that is projected to continue in 2019.

For 2019, the recommendation would increase rates for 97 percent of homeowners with multiperil policies. In 2015, Citizens approved rate decreases for 70 percent of its multiperil homeowners policyholders. During testimony before the [Senate Banking and Insurance Committee on February 4, 2019](#), Citizens President, CEO and Executive Director Barry Gilway said litigation is the key driver.

Despite a policy count reduction of more than 56 percent since 2013, the number of lawsuits filed against Citizens grew from 9,146 in 2013 to 13,363 in 2018. Private insurance companies have seen litigation nearly triple to 69,300 cases during that same period.

If litigation rates returned to pre-2013 historic levels, Citizens overall rate need would be reduced from 25.2 percent to 1.5 percent and most Citizens customers would see their rates go down.

Originally created to protect homeowners in legal matters against their insurers, Florida’s well-intentioned one-way attorney fee statute has been expanded by the courts to produce an uneven playing field in disputes between insurance companies and other businesses.

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March 5, 2019

Events

March 27 @ 9 a.m.

[Citizens Board of Governors](#)

Sheraton Orlando North

Spotlight



Christine Ashburn

Chief - Communications,
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Abuse of Florida's well-intentioned assignment of benefits law has also had an impact. In 2018, Citizens has received 3,631 AOB-related lawsuits, up from 860 in 2013.

The 2019 recommendations take into account policy language changes that became effective on August 1, 2018. Citizens actuaries factored in anticipated savings from Citizens' [Managed Repair Program](#), which is expected to reduce litigation costs surrounding nonweather water loss claims. The changes reduced Citizens indicated rate need - the increase necessary for Citizens rates to become actuarially sound - by 19 percent.

Citizens has prepared a [2019 rate kit](#) to provide legislators and staff with information about its 2019 rate filing, including [county-by-county](#) estimates for particular policy types.

Policies in Force

421,480

as of February 22, 2019

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CITIZENS BY THE NUMBERS

Policy Count
02.22.19



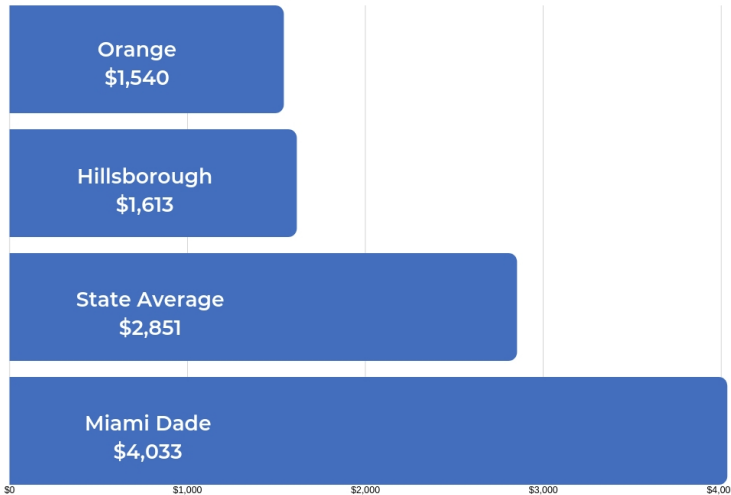
421,480

Exposure
02.22.19



\$107.5 billion

Average Homeowners Premium
2019



Assignment of Benefit
Lawsuits



2013: 860
2018: 3,631

Average Cost of 2018
Nonweather Water Claim



Litigated: \$30,776
Nonlitigated: \$10,812

Barry Gilway: Solid Citizens data supports push for reform

Tallahassee, FL – Over the past several years, Citizens Property Insurance Corporation has worked with Florida regulators, legislators and other stakeholders to address rising premiums brought on by increased litigation and claims abuse.

Recent testimony by opponents of AOB reform failed to acknowledge those efforts and the mountains of data already released by Citizens, Florida CFO Jimmy Patronis, and Florida Insurance Commissioner David Altmaier and others showing the negative impact of higher litigation rates for most Florida policyholders to the benefit, it appears, of a select few.



Citizens' President/CEO and Executive Director Barry Gilway (right) meets with Representative Gregory (left, House Criminal Justice Committee) to discuss AOB reform.

Citizens' data shows unequivocally that litigation is increasing and claims with an assignment of benefits are more likely to result in litigation. Meanwhile, litigation data submitted to the Florida Department of Financial Services show the number of AOB lawsuits filed against all Florida property insurers rose from 4,613 in 2013 to 17,421 in 2018, a 270 percent increase. These increases follow decades of relatively stable litigation rates.

It's unreasonable to suggest that insurers got together in 2013 and decided to suddenly underpay claims. Instead, a small but growing pool of law firms, contractors and other third party vendors have found it lucrative to challenge claims under a Florida law interpreted to guarantee they get paid if there is the slightest discrepancy between the initial estimate and the final award.

Once a "South Florida problem," litigation rates are rising across the state. In Polk and Orange Counties, lawsuits filed against property insurers increased fourfold from 2013 through 2018.

Vendors in these cases may earn a little bit more by litigating, but at what cost to consumers? In 2015, 70 percent of Citizens policyholders received a rate decrease. For 2019, 97 percent will see premiums go up.

Following Hurricane Irma, Citizens received nearly 69,600 claims. Of those, only 11.4 percent has gone to litigation. In contrast, Citizens' 2019 rate request is based in large part on the estimate that nearly half of all non-hurricane related water loss claims will result in litigation. How is it that we can pay \$1.2 billion in Irma claims with only a minimal number of lawsuits but vendors in water claims contend they are unable to get paid without them? The argument simply doesn't hold water.

Citizens supports the ability of homeowners to direct payments to vendors following a loss and to seek legal remedies if unsatisfied with how their claim was handled. As the state's nonprofit insurer of last resort, Citizens cannot support a system that promotes unnecessary litigation, raises costs and delays payment to our customers.

As we work toward a solution, Citizens will continue to provide stakeholders with accurate and timely data while protecting the confidentiality our policyholders expect and Florida law requires. Together we can find a solution that benefits all Florida consumers.

News Links

[2019 Legislative Preview: Could This Be The Year Lawmakers Pass AOB Reforms?](#)
WJCT

[Will 7th Time Be the Charm? Industry Makes Big Push for AOB Reform in 2019](#)
Insurance Journal

[Florida lawmakers must end Assignment of Benefits \(AOB\) abuse](#)
The News-Press

[Charles Snellgrove: Assignment of benefits victim; don't make the same mistake we did](#)
Florida Politics

[Florida Chamber calls for AOB reform, skills training, infrastructure investments](#)
Florida Politics

['The hurricane everyone forgot': North Florida politicians upset about aid gap after Michael](#)
Tallahassee Democrat