

## Week One – March 5-8, 2019

The 2019 Legislative Session convened on Tuesday with 66 freshman members between both chambers. Legislative and Cabinet Affairs has been working to educate all of the new legislators by providing an overview of Citizens and insight on the Assignment of Benefits (AOB) issue from Citizens' perspective. We will provide this *Capitol Update* each week during the 2019 Session.

Throughout the 2019 Session, we will refer to and update the [2019 Bill Tracking Chart](#). At this point, there are 22 bills we have identified as high priority bills that are highlighted in the attached spreadsheet. We will keep you apprised if any of the other bills start moving or are amended to include language with either a positive or negative impact to Citizens.

As in most recent years, the abuse and fraud surrounding Assignment of Benefits (AOB) will be Citizens top issue this Session. Both [Barry and Christine have testified](#) in the Senate and House of Representatives on the issue during interim committee meetings leading up to the convening of the 2019 Session. We are cautiously optimistic that some form of reform will be passed this year as evidenced by remarks made on opening day and recently by both the Governor and Senate President.

During [Governor DeSantis'](#) State of the State speech on Tuesday, he stated "I hope the Legislature passes legislation to reform the issue of AOB, which has really degenerated into a racket." He further stated later in the week, "I would like to see the abuses pared back...I think it's going to drive insurance rates up. I think the fact that we've had bad storms lately, that is going to cause insurance rates to go up. This, I think, just fuels that, and I want to help the insurance market."

[Senate President Galvano](#) reminded his members during his opening day address that the only requirement of the Legislature is to pass a budget for the fiscal year beginning on July 1. He also encouraged members to collaborate and vet issues carefully. "When an idea is not right, or a bill is not ready, let us have the courage to step back, regroup and rethink," he said. "And most, importantly, let us have the discipline to know when to let go and walk away...History is not going to judge the success of this Session by the number of bills we pass. To the contrary, it will judge the success of this Session by the quality of our actions."

Specifically on the issue of AOB Senate President Galvano was quoted as saying, "I think he's addressed the problem head on," in addressing the progress [Chairman Broxson](#) has made in the Senate. He further stated, "It's not an effort to abolish assignment of benefits. I think there's some value to being able to assign benefits.

"If you can get to the heart of an issue and not convolute it, then you're not coming back again and again to deal with it," said Senate President Galvano.

Even before the opening day festivities on Tuesday, committees had begun to delve into a myriad of important issues with the following action on bills specific to Citizens.

On Monday the [Senate Banking and Insurance Committee](#) took up a [Committee Substitute to SB 122](#) by [Chairman Broxson \(R-Gulf Breeze\)](#). The Committee Substitute contained several key changes, most notably:

- Establishes standards for a valid assignment of post-loss benefits under property insurance policies and motor vehicle insurance policies for coverage of windshield damage under comprehensive or combined additional coverage
- Limits the scope of an AOB in urgent or emergency circumstances and requires the assignee service provider to waive all claims against a consumer other than for payment of the deductible and betterment ordered by the consumer
- Provides that the prevailing party in litigation between an assignee service provider and insurer may be awarded attorney fees and establishes standard for the court to apply when determining the prevailing party
- Prohibits *judge shopping* by authorizing judges to order assignees to pay attorney fees and cost to the other party when an assignee service provider files suit, voluntarily dismisses the action, and then refiles in hopes of being assigned a different judge

Citizens waived time in support of the revised bill in support of Chairman Broxson. The bill is a work in progress and needs to be strengthened before passage. The bill passed 5-3 on a party-line vote. The bill is now in the [Senate Judiciary Committee](#) and will not come up until Week 3 at the earliest. The bill would take effect on July 1, 2019.

On Wednesday, the [House Civil Justice Committee](#) took up [CJS1](#) a committee bill by [Chairman Rommel \(R-Naples\)](#). The bill addresses Assignment of Benefit (AOB) abuse with the following key provisions:

- Defines *assignment agreement* and establishes requirements for the execution, validity, and effect of such an agreement
- Prohibits certain fees and altering policy provisions related to managed repairs in an assignment agreement
- Transfers certain pre-lawsuit duties under the insurance contract to the assignee and shifting the burden to the assignee to prove that any failure to carry out such duties has not limited the insurer's ability to perform under the contract
- Limits an assignee's ability to recover certain costs from the insured
- Requires the assignee to give the insurer notice of the assignee's intent to file a lawsuit and establishing requirements for the notice
- Requires the insurer to respond to the assignee's notice
- Sets the formula that will determine which party, if any, receives an award of attorney fees should litigation related to an assignment agreement result in a judgment
- Requires each insurer to report specified data on claims paid in the prior year under assignment agreements by January 30, 2022, and each year thereafter
- Allows an insurer to offer a policy prohibiting assignment, in whole or in part, provided the insurer gives specific notice

Citizens waived time in support of the bill. The bill passed with bipartisan support on a 13-2 vote. The bill would take effect on July 1, 2019.

[HB 301](#) by [Rep. Santiago \(R-Deltona\)](#) was also on the agenda, but was temporarily postponed when allotted time ran out. The bill contains the following key provisions specific to property insurance and will likely be back on the agenda next week.

- Civil Remedies Against Insurers – Insurance claimants are permitted to sue insurers for bad faith in claims handling practices, in certain circumstances, following a required pre-suit notice and after a 60-day cure period. The bill allows the insurer to invoke the property damage appraisal process during the 60- day cure period following the receipt of the required pre-suit notice. Additionally, if the insurer timely pays the result of the appraisal process, if payment is required, the insured will have no action for badfaith.

- Discounts for Purchase of Multiple Insurance Policies – Insurers may provide premium discounts if the insured has purchased another policy from the same insurer or insurer group or if the agent services multiple policies where one policy is a Citizens policy or was taken out of Citizens. The bill expands this allowance of multiple policy discounts to also allow premium discounts for:
  1. An insured's purchase of policies from insurers operating under a joint marketing arrangement
  2. Where the same agent is servicing policies for an insured where one was obtained through the Citizens clearinghouse process
  3. The same agent is servicing policies the insured purchased from multiple insurers.
- Property Insurance Claim Mediation – Insurers are required to issue a notice of right to mediate upon receipt of a first-party claim. The bill allows the insurer to issue the required notice at the time the insurer decides that a loss is covered and is issuing payment (which is an outcome the insured may disagree with) or, as currently provided, at the time a claim is filed (which is before the insurer has adjusted the claim).

The bill would take effect on July 1, 2019.

## On Deck – Week 2

The [Senate Banking and Insurance Committee](#) will be meeting on Monday, March 11, and will hear [SB 714](#) by [Sen. Brandes \(R-St. Petersburg\)](#). This is the insurance omnibus bill and companion to HB 301 by Representative Santiago outlined above.

The [House Civil Justice Committee](#) will meet on Wednesday March 13, at 8:30 a.m. The agenda has not yet been released.

The [House Insurance and Banking Committee](#) will meet on Wednesday, March 13 at 12:30p.m. The agenda has not yet been released.

The [House Commerce Committee](#) will meet on Thursday, March 14, at Noon. The agenda has not yet been released.

## Key Dates

April 23, 2019 – Last day for regularly scheduled committee meetings. Call of President or Speaker is required to schedule additional meetings.

March 3, 2019 – Last day of regular Session

## Committee Meeting Notice Requirements

**House of Representatives** – Two days prior to committee meeting date

**Senate** – Three days prior to committee meeting date

## News of Note – Week One

[Barry Gilway: Solid Citizens data supports push for reform](#)  
Florida Politics

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

[Hurricane Michael recovery funding money not in federal spending bill](#)  
Florida Watchdog

[Citizens Insurance denies sharing savings with water-loss review contractor](#)  
Florida Politics

[Roofing scammers stole nearly \\$500,000 from Volusia-Flagler residents after hurricane, officials say](#)  
Daytona Beach News-Journal

[Irma loss 'creep' expected to fuel homeowner insurance rate hikes](#)  
SunSentinel

[Hurricane Michael insured losses climbs past \\$5.8 billion](#)  
Tampa Bay Times

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