



Week Four – March 25-29, 2019

This past week the House of Representatives advanced Citizens top issue of Assignment of Benefits (AOB) reform clearing the last committee of reference and is ready for the Floor. The Senate and House of Representatives Appropriation Committees passed competing budget proposals and will be considered and voted on by their respective chamber next week. Wednesday, April 3, marks the official half-way point of the 2019 Session.

The following is a brief snapshot of Citizens' high priority bills which had action this week.

On Monday afternoon, the [Senate Banking and Insurance Committee](#) took up [SB 1476](#) by [Senator Flores \(R-Miami\)](#) which was amended and changes the 10 percent rate cap for Monroe County to 5 percent for two years beginning January 1, 2020 through January 1, 2022. Citizens estimates this change would reduce premiums by approximately \$2.95 million over the two-year time period the rate cap would be in effect.

The bill passed 6-1 with [Senator Brandes \(R-St. Petersburg\)](#) being the one nay vote. The bill now goes to the [Senate Community Affairs Committee](#).

Also on Monday, the [Senate Commerce and Tourism Committee](#) met and took up both [SB 1414](#) and [SB 1416](#) by [Senator Gruters \(R-Sarasota\)](#) relating to public records/trade secrets held by agencies.

[SB 1414](#) was amended to require a person who submits information to an agency that includes trade secret information to mark as "trade secret" both the page *and* specific portion of the record.

The bill passed unanimously and now heads to the [Senate Governmental Oversight and Accountability Committee](#). The bill would take effect on becoming law.

[SB 1416](#) was also amended with the following changes:

- Maintains current law regarding confidentiality of trade secrets contained in records held by and discussed at meetings of hospitals regulated by F.S. 395.
- Deletes language that would have allowed the OIR to aggregate trade secret information and issue it in public reports.
- Clarifies that trade secrets contained in contracts, agreements, or addenda thereto to which research institutes created or established by law, divisions of sponsored research at state universities, and technology transfer centers at Florida College System Institutions are party are exempt from disclosure.

The bill passed unanimously and now heads to the [Senate Governmental Oversight and Accountability Committee](#). The bill would take effect on becoming law.

On Tuesday, the [House Insurance and Banking Committee](#) met and [HB 541](#) by [Representative Zika \(R-Land O'Lakes\)](#), which substantially changes the definition of catastrophic ground cover collapse specific to sinkholes, was on the agenda but not heard. Representative Zika acknowledged that there was more work to be done on the bill and will be reaching out to stakeholders during the interim. This was the last committee meeting for the 2019 Session and therefore this bill is dead.

On Thursday, the [House Judiciary Committee](#) took up [HB 7065](#) by [Chairman Rommel \(R-Naples\)](#) relating to Assignment of Benefits (AOB).

The bill was amended to make the following modifications:

- Changes the rescission period for an AOB under a residential or commercial property insurance policy to:
 - Seven days after execution of the agreement;
 - At least 30 days after the date the work on the property is scheduled to commence, if the assignee has not substantially performed; or
 - At least 30 days after the execution of the AOB if the AOB does not contain a commencement date and the assignee has not begun substantial work on the property.
- Revises the requisite notice of rescission rights to reflect the modified rescission period for an AOB under a residential or commercial property insurance policy.
- Requires an assignee to send a notice of intent to initiate litigation by certified mail, return receipt requested, or electronic delivery.
- Clarifies that an insurer has 10 business days from receipt of the notice of intent to respond to the notice in writing.
- Allows a court to award attorney fees to a respondent in a voluntarily dismissed action when an assignee brings an identical claim against the same respondent in a subsequent action in another court.
- Requires a court to stay a subsequent action until the assignee pays the attorney fees from the dismissed action.
- Requires an insured to reject a fully assignable policy in writing on a form approved by OIR if the insured purchases a restricted assignment policy.

The bill passed 14-3 and now goes to the Floor.

Also, on Thursday, the [House Commerce Committee](#) met and took up [HB 301](#) by [Representative Santiago \(R-Deltona\)](#) which is the omnibus bill containing the following provisions:

- Policyholders are permitted to sue insurers for bad faith in claims handling practices following a required pre-suit notice and after a 60-day cure period. Prohibits an insured from filing a civil remedy notice within 60 days after an appraisal is invoked. Additionally, it removes a provision authorizing the [Department of Financial Services \(DFS\)](#) to return the notice for lack of specificity.
- Except in Miami-Dade and Monroe Counties, Citizens limits private dwelling coverage to \$700,000; however, in Miami-Dade and Monroe, the limit is \$1 million. All homeowners with homes over \$1 million in value may purchase insurance in the surplus market following a single coverage rejection from a Florida insurer, this is known as “exporting coverage.” HB 301 lowers the home value threshold from \$1,000,000 to \$700,000 for exporting a homeowner’s property insurance for a residential dwelling to a surplus lines insurer following a single coverage rejection.
- 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, or
- 3) the same agent is servicing policies the insured purchased from multiple insurers.

- 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 passed unanimously and now heads to the Floor. The bill would take effect on July 1, 2019.

On Deck – Week Five

The [Senate Judiciary Committee](#) will be meeting on Monday, April 1 at 4:00 p.m. and take up [SB 714](#) by [Senator Brandes \(R-St. Petersburg\)](#). An amendment has been filed which will change the Florida Hurricane Catastrophe Fund (FHCF) reimbursement for loss adjustment expenses to 10 percent versus 15 percent which is currently in the bill.

The other key provisions which are currently in the bill include:

- Requires the Florida Hurricane Catastrophe Fund (FHCF) to reimburse a covered insurer's loss adjustment expenses at 15 percent of the insurer's loss reimbursement or at the percentage established by the Financial Services Commission (FSC), whichever is less. Under current law, reimbursement for loss expenses is equal to five percent of an insurer's reimbursed losses.
- Prohibits a pre-suit notice for an action brought under s. 624.155, F.S., which relates to bad faith claims and other causes of action against an insurer, from being filed within 60 days after the appraisal process outlined in an insurance contract is invoked.
- Deletes a provision allowing the Department of Financial Services (DFS) to return a pre-suit notice for a bad faith action under s. 624.155, F.S., if the notice lacks specific, required information.
- Provides that workers compensation insurance applicants and their agents are no longer required to have their sworn statements notarized as currently required by Office of Insurance Regulation (OIR) rule.
- Allows an insurer to offer and give insureds goods or services of any value for the purposes of loss control or loss mitigation related to covered risks. Currently it is an unfair insurance trade practice to provide items or services to an insured valued at more than \$100 per year.
- Allows a property, casualty, or surety insurer to offer a premium discount for a policy if another policy has been purchased from a different insurer that:
 - Has a joint marketing arrangement with the insurer offering the discount; or
 - Issued the policy pursuant to the Citizens clearinghouse program if the same agent is servicing both policies.
- Allows the insurer to issue the required right to mediation notice at the time the insurer applies coverage and determines payment or at the time a claim is filed.

The [House Government Operations and Technology Appropriations Subcommittee](#) will meet on Monday, April 1 at Noon and take up [HB 1393](#) by [Representative Clemons \(R-Jonesville\)](#) which is the comprehensive [Department of Financial Services \(DFS\)](#) package.

The [Senate Banking and Insurance Committee](#) will be meeting on Monday, April 1 at 4:00 p.m. No legislation specific to Citizens is being heard.

The [Senate Rules Committee](#) will *not* meet the week of April 1.

The [Senate Community Affairs Committee](#) will meet on Tuesday, April 2 at 2:00 p.m. and take up [SB 1476](#) by [Senator Flores \(R-Miami\)](#) which limits rate increases to 5 percent for Monroe County.

The [House Judiciary Committee](#) will meet on Thursday, April 3 at 9:00 a.m.

The [House Commerce Committee](#) will meet on Thursday, April 4 at 8:00 am. The agenda has not yet been released.

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 Four

[Patronis: AOB A "Man-made Disaster"](#)

WFSU Newsroom

[Assignment of benefits lawsuits continues to rise for eighth straight year, report says](#)

Tallahassee Democrat

[FJRI Update Details Continued Growth in AOBs ... Thanks to a Handful of Busy Attorneys](#)

Sunshine State News

[AOB lawsuits outpacing population growth](#)

Florida Politics

[Florida's Citizens: \\$200M Reinsurance Buy Needed to Protect Personal Lines Surplus](#)

Insurance Journal

[Citizens: Hurricanes, water losses, AOB prompt reinsurance changes](#)

Florida Politics

[Rate adequacy progress offset by rise in non-weather losses & AOB: Citizens](#)

Reinsurance News

[Florida CFO: More Than \\$40M Recovered for Insurance Consumers in 2018](#)

Insurance Journal