

Florida insurance bodies angling to resurrect fee multiplier reform

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A now-defunct bill that would have banned “contingency risk multiplier” fees passed the House but survived just ten days in the Senate.

Florida insurance representatives are hoping that a bill which would limit potential fees that no-win no-fee lawyers can charge on property insurance cases will be resurrected, despite a previous version of the proposal having died in the Florida Senate a few weeks ago.

The now-defunct House Bill 7071 had aimed to ban so-called “contingency risk multiplier” fees as high as 30 times the value of a litigated claim. It would have obliged attorneys to charge “lodestar” fees, consisting of an hourly rate for a reasonable number of hours worked.

The bill passed Florida’s Republican-controlled lower house with a strong majority on 4 March but survived just ten days in the senate.

Explaining the fate of the bill, Florida Association of Insurance Agents (FAIA) CEO Jeff Grady told **Trading Risk** that competing interests in the upper chamber had stopped the proposal in its tracks, but the same legislation could reappear in the coming months.

“Trial attorneys are very powerful in the Florida Senate and control key committee votes that prevented the bill from ever making to the floor for a final vote,” he said.

“We expect the bill will be re-filed towards the end of this year without any changes, but are uncertain of bill sponsors at this time,” he added.

FAIA and others have blamed the risk multiplier as one factor undermining profitability and driving up the retail price of property cover in the Florida insurance market.

That in turn makes increasing numbers of consumers turn to Florida state-backed cedant Citizens Property Insurance which, as previously reported in **Trading Risk**, is expecting up to 100,000 new policies this year.

“More Florida property claims are being represented by trial attorneys and adding to the loss adjustment expense for carriers. As a result, loss ratios have deteriorated and caused more and more Florida property companies to file for rate increases resulting in higher premiums for consumers,” Grady said.

Knock-on effects

The knock-on effects of the risk multiplier could extend to an increase in Citizens' size, as well as an increase in reinsurance costs, according to Fred Karlinsky, a shareholder with law firm Greenberg Traurig, who represents a number of insurance-related parties with an emphasis on the Florida market.

"The world is a circular place. The reinsurers typically charge the primary insurers more when there is uncertainty on the marketplace. That goes into the rate base and therefore consumers pay more."

"Anytime you've got losses and loss costs, that's reflected down the road in filings and that can make rates increase," he added. "Any disruption in the marketplace is going to potentially cause reinsurance rates to go up, which ultimately is likely to cause primary insurance rates to go up."

Another prime factor adding uncertainty to the price outlook for insurance and reinsurance is Florida's unique regulatory framework around assignment of benefit (AOB), he noted. While legislation in 2019 addressed this issue, which had been festering for a number of years, there still remain unresolved issues, he added.

Last April, Florida Governor Ron DeSantis approved an AOB reform bill that restricted the type of work claimable under home and commercial property cover and allowed insurers to sell policies excluding AOB losses. Some though – including Karlinsky – are waiting to see whether the tighter rules lead to lower policy prices.

[AOB-related lawsuits](#) skyrocketed after Hurricane Irma, rising to some 135,000 in 2018, up from 1,300 in 2000.

Looking ahead, while no Florida lawmakers have sponsored a resurrected version of HB 7071, the bill may find a new champion later this year. The state holds its next election for House and Senate seats on 3 November.

Regardless of the progress of legislative reforms, Florida primary and reinsurance rates are expected to rise in 2020 after successive years of substantial cat losses due to hurricanes Irma and Michael. This year, seasonal forecasts anticipate an above-average tropical storm season in the Atlantic.

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