

New Legislation From Florida Special Session on Property Insurance Reform

May 26, 2022

The Florida Legislature wrapped up its special session on property insurance reform yesterday, overwhelmingly passing legislation to reform the property insurance market and unanimously passing reforms to enhance the safety of condominium buildings following last year's tragic collapse of the Champlain Towers South building in Surfside. Below are highlights of the bills, which will now be sent to the governor for his signature.

Highlights – [Senate Bill 2-D](#) and [Senate Bill 4-D](#)

Condominium Safety

- Requires “structural integrity reserve studies” to determine how much funding condominium associations should set aside to make repairs to buildings.
- Reserve funding requirements will be based on structural integrity reserve studies and waivers or reductions of reserves are prohibited.
- Requires visual inspections for condominium buildings three stories or higher that have been occupied for 30 years, or 25 years if the buildings are within three miles of a coastline; inspections are required every 10 years following initial inspections.
- Additional inspections are required if “substantial structural deterioration” is found.
- Requires inspection reports to be distributed to condominium associations and local building officials and requires summaries to be distributed to unit owners and made available to condo buyers.

- County commissions may pass local requirements for repairs to buildings with structural deterioration.

New Reinsurance Program

- Authorizes \$2 billion for a new Reinsurance to Assist Policyholders (RAP) program for insurers. This reinsurance coverage is provided at no cost to the insurer.
- This program allows insurers to obtain reimbursement for hurricane losses earlier than they normally would under the Florida Hurricane Catastrophe Fund.
- Insurers that participate in RAP for 2022 must reduce their policyholder's rates by June 30, 2022, to reflect the savings from RAP.

Roofing Claims

- Insurers may not refuse to write or renew policies on homes with roofs that are less than 15 years old solely because of the roof's age.
- For a roof that is at least 15 years old, insurers must allow homeowners to have a roof inspection before requiring the replacement of the roof as a condition of writing or renewing the homeowner's insurance policy. Insurers may not refuse to write or renew a homeowner's insurance policy solely because of the roof's age if an inspection shows that the roof has five years or more of useful life.
- Provides a method for calculating a "roof's age" for purposes of the above requirements.
- Requires a roof deductible provision to be clear and unambiguous and allow the policyholder to opt out of the separate roof deductible.

- Allows property insurers to require a separate roof deductible (with an opt-out provision) that may not exceed the lesser of 2% of the policy dwelling limits or 50% of the roof replacement costs. Policyholders who select a roof deductible must receive a premium credit or discount.
 - The roof deductible may not apply to total losses caused by a covered peril, hurricane losses, and other circumstances.
 - Requires certain policyholder disclosures.
 - Allows an insurer to limit payment on a roof claim to actual cash value until the policyholder pays the roof deductible.
- Creates a statutory exception to the Florida Building Code so that roofs that are more than 25% damaged but already comply with the 2007 Florida Building Code may be repaired instead of being required to be replaced.
- Prohibits written contractors' solicitations that encourage consumers to make a property insurance claim for roof damage unless the solicitation contains certain consumer notices.

Insurance Fraud/Abuse

- Limits attorney fee multipliers in property insurance litigation by only allowing them to be awarded in rare and exceptional circumstances.
- Eliminates attorney fee awards in litigation involving a property insurance claim that is assigned to a third party (usually a contractor).
- Bans transfers or assignment of the right to receive attorneys' fees in property insurance litigation.
- Policyholders may not prevail in a property insurance bad faith suit unless they establish that the property insurer breached the insurance contract.

Solvency

- Creates a new insurer stability unit within the Office of Insurance Regulation to increase regulatory oversight.

- Directs the Office of Insurance Regulation to make publicly available information detailing the number of policies, amount of premium, number of cancellations, and other data for each property insurer on a statewide basis. Specifies such information is not a trade secret.

Insurer Operations

- Requires insurers to notify policyholders that they may request a copy of any detailed estimate of the amount of the loss generated by an insurer's adjuster. After receiving the request, the insurer must send the detailed estimate to the policyholder within seven days.
- Requires insurers to provide a reasonable explanation in writing to the policyholder of the basis for the payment, denial, or partial denial of a claim. If the insurer's claim payment is less than specified in any insurer's detailed estimate of the amount of the loss, the insurer must provide a reasonable explanation in writing of the difference to the policyholder.

Home Hardening Grants

- Effective July 1, appropriates \$150 million to provide hurricane mitigation inspections and matching grants to help Floridians afford home hardening improvements to their homestead single-family residences valued at \$500,000 or less.

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