

A large satellite image of a hurricane dominates the top half of the page. The hurricane is shown from a high-angle perspective, with a distinct eye and swirling cloud bands. The colors are in shades of white, grey, and blue, representing the clouds and the ocean below. The image is partially obscured by the AMWINS logo in the top left corner.

## How Will Florida's Property Insurance Legislation Impact Capacity, Limits and/or Premium Rates?

It's no secret Florida's property insurance market is in a tumultuous state with residents seeing their insurance premiums continue to rise while coverage limits decline. A public outcry and demand for the Florida legislature to address the issue has become more urgent as the Atlantic Hurricane Season is upon us and insureds struggle to find adequate coverage.

On May 26, Governor Ron DeSantis signed pro-industry bipartisan property insurance legislation that seeks to reform property insurance concerns in the state. The bills address fraudulent insurance claims and litigation, home hardening, and reinsurance assistance for insurers in an effort to inspire carriers to expand capacity and offer premium relief to property owners.

Before we examine the bills and their potential impacts, let's review the root issues causing the current capacity crisis in Florida.

### CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

### LEGAL DISCLAIMER

Views expressed here do not constitute legal advice. The information contained herein is for general guidance of matter only and not for the purpose of providing legal advice. Discussion of insurance policy language is descriptive only. Every policy has different policy language. Coverage afforded under any insurance policy issued is subject to individual policy terms and conditions. Please refer to your policy for the actual language.

*Courtesy of Amwins Group, Inc.*



## Root Issues for Capacity Crisis

### **CAT loss frequency / severity**

The escalation in strength and frequency of named storms combined with the increase in property values in Florida over the past 20 years have culminated in substantially higher losses hitting carriers' balance sheets. Meanwhile, carriers have not charged adequate rate to cover these additional expenses.

The result, when combined with other catastrophic events, has led carriers to reduce volatility on their balance sheets by either exiting the market entirely or cutting back limits and raising rates. Research on Florida's insurance situation done by Jerry Theodorou and [R Street Institute](#) indicates that while the average combined ratio in the U.S. is 103%, in Florida it's 120%.

### **Spiraling reinsurance costs**

Over the past five to ten years, carriers have lost money writing CAT-exposed property. Most of this loss has been in the reinsurance market, driving re-insurance rate increases—which are still not adequate to maintain profitability. To mitigate the rising reinsurance costs, carriers have decreased the amount of reinsurance they purchase. This combined with their goal of reducing volatility in their books has substantially increased the cost of available capacity.

### **Fraudulent insurance claims and litigation**

In 2021, more than 116,000 lawsuits were filed against Florida property insurers—the highest number filed in any other state was 900.

Fraudulent roof damage claims are the main source of litigation. Non-licensed public adjusters and unscrupulous contractors solicit property owners to repair a building's roof through a fraudulent insurance claim, often claiming storm damage as the reason for repair.

In July 2021, DeSantis signed SB 76, prohibiting contractors from soliciting a consumer to repair a roof through an insurance claim and/or offering roof inspections. It may take some time to see an impact from this law, and in the meantime, the cost to litigate these fraudulent claims is creating a significant financial burden to carriers. R Street Institute's research shows that the national average for insurer defense and defense costs is about 1.2%, while Florida's is 6%.



## Florida Special Assembly: Senate Bills 2D and 4D

Senate Bills 2D and 4D were introduced by Florida Senator Jim Boyd on May 20 **and passed on May 24**. The bills are intended to provide a wide range of fixes to Florida's insurance crisis. Passing within three days, with only minor changes, highlights the level of cooperation and commitment from Florida government.

### Key components of legislation include:



#### Clarifying options for roof repair and replacement

- Ensures a clear understanding between homeowners and their insurers about when a roof replacement will be covered in full and when the insured's deductible will apply.
- Allows insurers to offer policies that include a roof deductible with an actuarially sound premium or credit. This allows homeowners to choose the policy that best fits their needs.
- Exempts roofs built to 2007 standards from a law that currently requires an entire roof to be replaced if 25% is damaged.
- 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. This has sparked some criticism of the bill.



#### Reducing frivolous litigation

- Limits the application of the attorney fee contingency risk multiplier to rare and exceptional circumstances
- Permits insurers to seek attorney fees in cases where a claimant files a lawsuit without first filing a required notice of intent to initiate litigation.
- Clarifying when a bad faith suit may arise
- Preventing rights to receive attorney fees being transferred in a property insurance litigation



#### Funding matching grants for home hardening

- Expands the My Safe Florida Home Program, tax breaks aimed at strengthening homes against storm damage, to include hurricane mitigation inspections and matching grants for retrofitting on homesteaded single-family homes with a value of \$500,000 or less.



#### Enhancing insurer access to the Florida Hurricane Catastrophe Fund (FHCF)

- Authorizes \$2 billion below the FHCF attachment to go the new Reinsurance to Assist Policyholders (RAP) program. The program is for hurricane losses for one year only to help lower the cost of reinsurance.
- Allows insurers to obtain reimbursement for hurricane losses earlier than they typically would under the FHCF.
- Requires participating insurers to reduce their policyholder's rates in a rate filing by June 30, 2022. For carriers who have already secured reinsurance for 2022, they may defer using the RAP fund to 2023.
- Critics say that the bill only provides coverage for hurricanes, leaving carriers bare for tropical storms and secondary perils if they opt for its limit and can't buy in the private market.

## Impacts on Market

Florida property insurance renewals are a big issue for the global reinsurance industry—the state alone makes up between \$12-15 billion in annual premiums of the \$40 billion global CAT reinsurance market. In recent years, however, it's also been responsible for a significant amount of the losses.

On May 30, it was estimated that as much as 25% of Florida reinsurance renewal limits had not been placed for June 1. Reinsurance renewals that are secured are expected to see rate increases of at least 20-30%.

While funding the RAP is a positive move, it remains to be seen how effective it will be in increasing available capacity. With the RAP protection and FHCF providing first event coverage only, there will be a greater emphasis from the rating agency on second and third event protection, particularly with the NOAA warning of an above-average storm season this year.

Most of Florida's primary property carriers use Demotech as the rating agency that assesses their financial strength and reinsurance program adequacy. It isn't known if funding from the RAP program will help carriers secure enough reinsurance to meet Demotech's requirements.

Without securing proper reinsurance coverage, carriers may find it difficult to maintain their ratings—leaving property owners scrambling to find coverage that meets mortgage requirements.

While this new Florida legislation is welcome, we will have to wait and see if the outcomes will be adequate to fix the state's property insurance marketplace. In the meantime, expect market conditions to continue to be difficult. Agents can help their clients by getting to market early, preparing for tough renewals, and partnering with a specialist broker like Amwins with long-standing market relationships and exclusive capacity.

