

**Casualty Actuarial Society**  
**2022 Spring Meeting**  
Concurrent Session CS21:  
**State of the Florida Homeowners Insurance Market**  
• Travis Miller, President, Radey Law Firm  
• Clayton Southwood, Senior Director, WTW  
May 16, 2022

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**Agenda**

- Background
  - Population and Exposure Growth
  - Hurricanes: Andrew (1992), the 2004/2005 Hurricane Seasons and Irma (2017)
  - Demographics and Combined Ratios of Florida Homeowners Insurers
- History – litigation and reform efforts
  - Mold, Sinkhole, Roof Claims and Water Claims
  - What is Assignment of Benefits?
  - House Bill 7065, Litigation Trends and Senate Bill 76
- Florida's quasi-governmental (re)insurance entities
  - Florida Hurricane Catastrophe Fund
  - Citizens Property Insurance Corporation
- Product Trends
- Special Legislative Session

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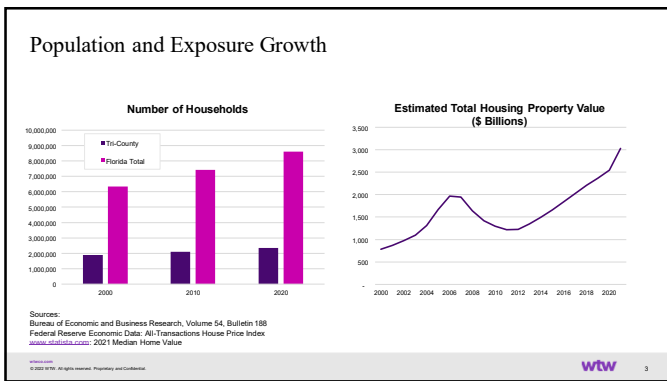
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### Impact of Hurricanes: Andrew (1992), the 2004/2005 Hurricane Seasons and Irma (2017)

- Andrew was the largest storm in history when it made landfall
- Overall, 1992 remains the 9<sup>th</sup> worst Atlantic storm season
- 2004 (5<sup>th</sup> worst) and 2005 (2<sup>nd</sup> worst)
- The past 6 years (2016-2021) are all on the top 10 list

**Nominal Damage (\$Billions)**

**List of costliest Atlantic hurricane seasons (as of 2021)**

Rank	Cost	Season
1	≥ \$294.703 billion	2017
2	\$172.297 billion	2005
3	≥ \$80.943 billion	2021
4	\$72.341 billion	2012
5	\$61.148 billion	2004
6	≥ \$51.146 billion	2020
7	≥ \$50.126 billion	2018
8	≥ \$48.855 billion	2008
9	\$27.302 billion	1992
10	≥ \$17.485 billion	2016

Based on nominal USD damage totals. Because these numbers have not been adjusted for inflation, nor adjusted for changes in population and wealth in coastal counties, the costliness of recent hurricanes is artificially inflated compared to hurricanes of the past. This makes it hard to accurately compare the damage inflicted by hurricanes over time. [https://en.wikipedia.org/wiki/List\\_of\\_costliest\\_Atlantic\\_hurricanes](https://en.wikipedia.org/wiki/List_of_costliest_Atlantic_hurricanes)

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### Demographics of Florida Homeowners Insurers

**Written Premium for Largest 15 Carriers**

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### Demographics of Florida Homeowners Insurers

**Written Premium for Largest 15 Carriers**

Rank	2005	2009	2013	2017	2021
15	Southern Farm Bur.	Security First	Amer Integrity	Amer Integrity	Security First
14	Farmers	Southern Farm Bur.	Security First	Chubb	Alstate
13	LPC	Farmers	AIG	AIG	Chubb
12	GeoVera Holdings	LPC	Chubb	First Protective	Amer Integrity
11	Geovera	Nationwide	People's Trust	HCI Group	FEDNAT
10	Progressive	Chubb	FEDNAT	FL Peninsula	LPC
9	AIG	AIG	LPC	LPC	Heritage
8	Chubb	Liberty Mutual	LPC	Progressive	FL Peninsula
7	Towers	Alstate	FL Peninsula	Security First	HCI Group
6	Liberty Mutual	Progressive	HCI Group	USA	First Protective
5	USAA	FL Peninsula	Progressive	Heritage	USAA
4	Nationwide	USAA	USAA	FEDNAT	Progressive
3	Tower Hill	Tower Hill	Tower Hill	Tower Hill	Tower Hill
2	Alstate	Universal	State Farm	State Farm	State Farm
1	State Farm	State Farm	Universal	Universal	Universal

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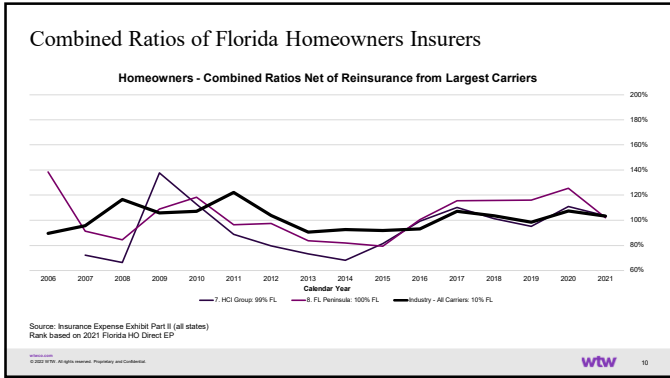
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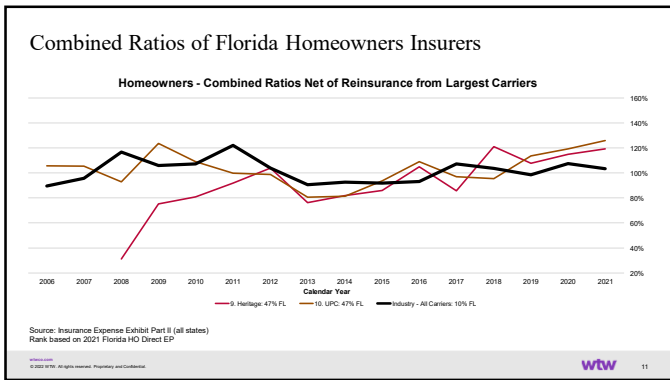
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### Impact of Mold

The challenges in Florida's property insurance market largely began in the late 1990s as the mold crisis migrated from Texas

- Texas was generally considered the epicenter of the mold crisis, but it quickly spread to Florida, aided by Florida's One-Way Attorney Fee statute
- A cottage industry developed based on a presumption that most water claims involved mold and that expensive remediation was needed to mitigate
- Carriers responded by proposing a \$10,000 sublimit. The Florida Office of Insurance Regulation (OIR) resisted which resulted in a court battle
- Within a year the industry won the right for a sublimit, most carriers adopted and the mold issue largely went away



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### Impact of Sinkhole

**Mold was quickly followed by sinkhole**

- Attorneys and contractors pivoted to sinkhole litigation, attributing many claims to the honeycomb of porous lime rock in Florida
- This spawned the next crisis, which resulted in Senate Bill 408 (2011). SB 408 attempted to address the crisis by doing things like defining the types of structural damage that qualified for coverage and imposing a time limit on filing a claim



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### Impact of Roof and Water Damage

**After mold sub-limits and sinkhole reform, challenges shifted to roof and water damage claims**

- One broken tile often leads to a "free" roof
- Water damage in combination with an Assignment of Benefits leads to expanded scope of repairs and expensive litigation



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### What is Assignment of Benefits?

**An Assignment of Benefits (AOB) agreement is formed when an insured signs a contract with a third party, usually a contractor, to step into the insured's shoes and pursue rights against an insurance company under the insured's policy**

- Significant increase in AOB agreements following Hurricanes Irma (2017) and Michael (2018), especially in first-party property insurance
- Contractors took advantage of Florida's One-Way Attorney Fee statute which incentivized them to charge excessive amounts and pursue sometimes frivolous and expensive litigation against insurers
- AOB legislation (House Bill 7065) designed to curb abuses took effect on July 1, 2019

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### House Bill 7065

**HB 7065 was designed to curb AOB abuses**

- AOB must be in writing (executed between the assignor and the assignee)
- Like a policyholder, assignee must cooperate with insurer
- Assignee must serve written notice at least 10 business days prior to filing suit
- One-Way Attorney Fees altered for AOB suits against insurers and attorney fees are discretionary
  - When awarded, if the difference between the judgment obtained by the assignee and the pre-suit settlement offer is:
    - Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees
    - At least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees
    - At least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees
- Insurers may issue policies excluding AOB under specified conditions

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### Litigation Trends

Florida Property Insurance Market Litigation Challenges

**2022 AAIS Florida Insurance Market Survey**

What concerns you most about the state of the Florida Insurance Market?

Litigation was rated as a "top priority" by 75% of polled Insurance Carriers and Reinsurers and 87% of Insurance Service Providers

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### Litigation Trends

Florida Property Insurance Market Litigation Challenges

**NAIC Market Conduct Annual Statement Data Call**

Year	Percent of Nationwide Homeowners	
	Claims Opened in Florida	Suits Opened in Florida
2016	8%	64%
2017	16%	68%
2018	12%	80%
2019	8%	76%
2020	8%	79%

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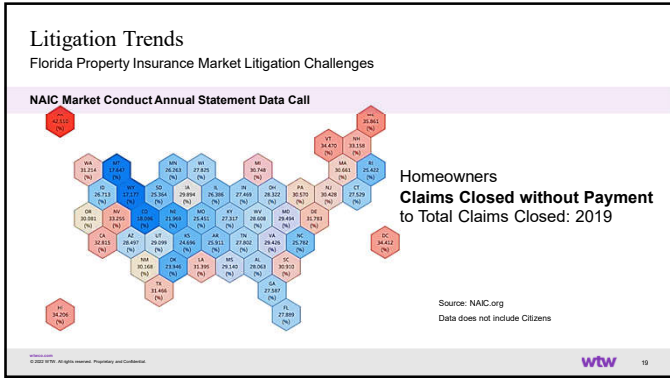
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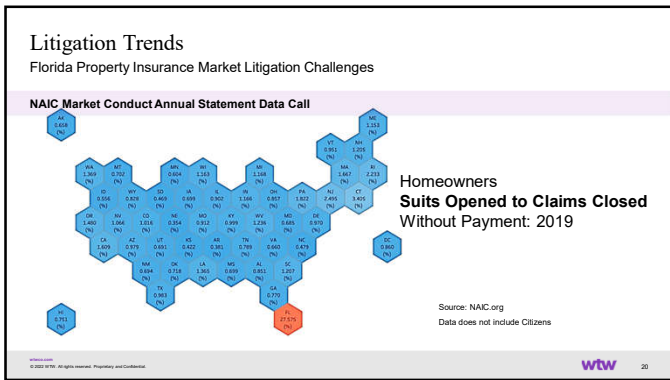
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### Senate Bill 76\*

Contractor marketing practices and statute of limitations

- Prohibits contractors from encouraging consumers to contact a contractor or public adjuster for the purpose of making an insurance claim for roof damage
- Claims filing period reduced:
  - Notice of a claim or "reopened claim" must be within 2 years of loss date; previously, only hurricane claims were limited (3-year period)
  - Notice for "supplemental claim" must be within three years of the date of loss

\* Note that certain provisions were eliminated after legal challenges

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### Senate Bill 76

#### Provisions of SB 76

##### Notice of intent to litigate, attorney fee awards and notice of other lawsuits

- Insured must notify insurer of intent to litigate at least 10 days prior to filing lawsuit
- Attorney fee awards depend on the results obtained in relation to the pre-suit demand and offer (like AOB rules)
- Every party to a lawsuit must provide notice of all other lawsuits involving the same property insurance policy and the same property
  - The court, on its own initiative or on the motion of a party, may consolidate all the lawsuits
  - This measure is designed to reduce the expense when defending multiple lawsuits concerning the same loss, such as a homeowner claim and a related AOB claim

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### Florida Hurricane Catastrophe Fund

##### The Florida Hurricane Catastrophe Fund (FHCF) was created in November 1993 during a special legislative session after Hurricane Andrew

- Tax exempt state trust fund provides reimbursement to residential property insurers
- Funding primarily from actuarially-determined premiums paid by residential property insurance companies
- Backstopped by emergency assessments on broad P&C lines

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### Citizens Property Insurance Corporation

##### Citizens was created by the Florida Legislature in August 2002 as a not-for-profit, tax-exempt, government entity

- Provides property insurance to eligible Florida property owners unable to find insurance coverage in the private market
- Funded by policyholder premiums; rate changes subject to statutory limits
- Initially backstopped by potential assessments on its own policyholders
- Can also assess broad P&C lines
- Senate Bill 76 increases 10% cap on rate increases by 1% annually beginning in 2022 until reaching 15% in 2026. Is this enough?

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## Citizens Property Insurance Corporation

- Citizens has used a number of strategies over the years to reduce policies in force by encouraging private market participation
- For example, the Property Insurance Clearinghouse is an innovative program that identifies private-market insurance options for consumers who believe Citizens might be their only choice for insurance
- The Clearinghouse was authorized by the 2013 Florida Legislature
- Citizens saw steady declines in population following the establishment of the Clearinghouse, but the current market stressors are causing a large increase in population
- As of March 31, Citizens had 817,926 policies. Expected policy count by year-end is 1.1 to 1.3 million

Year	Policies in Force
2012	1,476,942 (Highest)
2013	~1,200,000
2014	~1,000,000
2015	~800,000
2016	~700,000
2017	~600,000
2018	~500,000
2019	~450,000
2020	421,332 (Lowest)
2021	817,926 (as of March 31, 2021)

Source: Department of Financial Services

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## Product Trends

**In the absence of a comprehensive solution to the cause of the market's underlying problems, insurers have adjusted policy forms to address the symptoms**

- Historically this included mold limitations, limits on screened enclosure coverage and redefining sinkholes
- In recent years, this expanded to water damage exclusions and buybacks
- In response to current and severe deterioration, emerging changes include:
  - Limitation on matching
  - Roof deductibles or roof schedules
  - Alternative dispute resolution
- Benefits: maintains availability of coverage, moderates premium impacts, increases options for consumers
- Drawbacks: less coverage for meritorious claims, ineffective in addressing the underlying problems

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## Special Legislative Session on Property Insurance

**The 2022 regular legislative session ended in March with no property insurance reform**

- Governor Ron DeSantis called a special session for May 23-27; scope of the session includes:
  - Property insurance
  - Reinsurance
  - Changes to Florida Building Code to improve affordability of property insurance
  - Office of Insurance Regulation
  - Civil remedies
  - Appropriation
- Proclamation specifically mentions Florida's disproportionate property insurance litigation, recent insurer insolvencies and growth in Citizens Property Insurance Corporation

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