

Casualty Loss Reserve Seminar 2022
 Concurrent Session LOB-2
Florida Homeowners: A Market in Crisis

- Klaiton Southwood, Senior Director, WTW
- Trevar Withers, Director, WTW
- Missy Shelley

September 20, 2022

© 2022 WTW. All rights reserved. Proprietary and Confidential.

wtw

1

Antitrust Notice

- The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.
- Under no circumstances shall CAS seminars be used as a means for competing companies or firms to reach any understanding – expressed or implied – that restricts competition or in any way impairs the ability of members to exercise independent business judgment regarding matters affecting competition.
- It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.

CAS

2

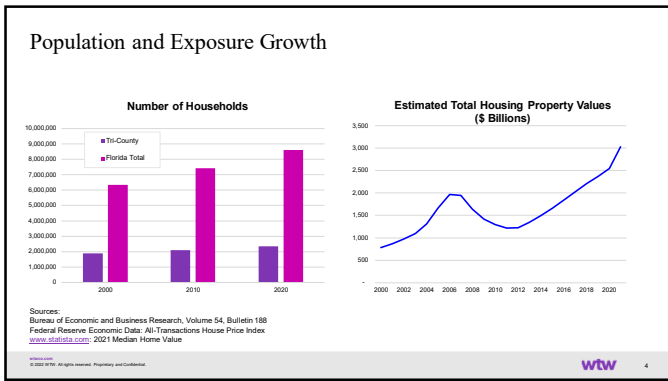
Agenda

- Background
- History – litigation and reform efforts
- Challenges facing Florida's state supported entities
- Product Trends

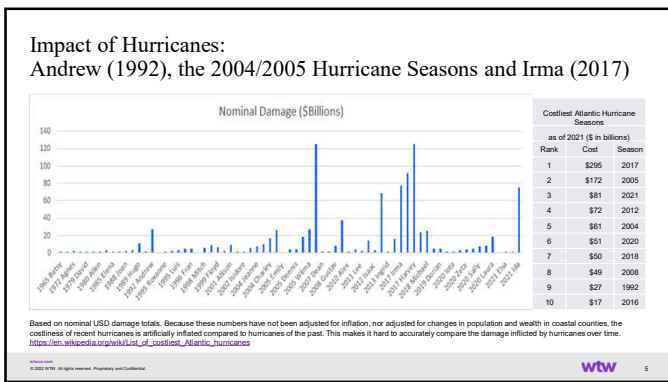
© 2022 WTW. All rights reserved. Proprietary and Confidential.

wtw 3

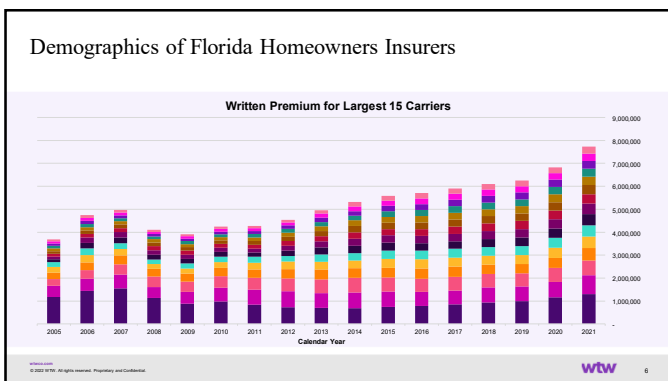
3



4

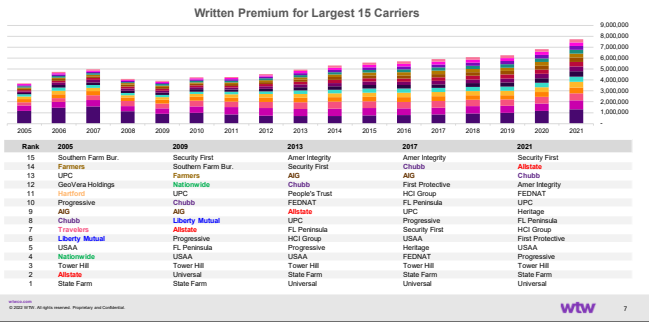


5



6

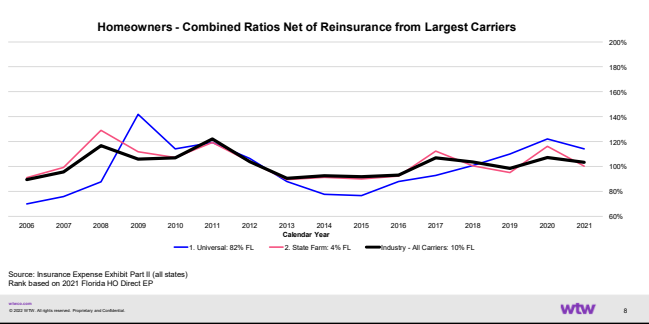
Demographics of Florida Homeowners Insurers



7



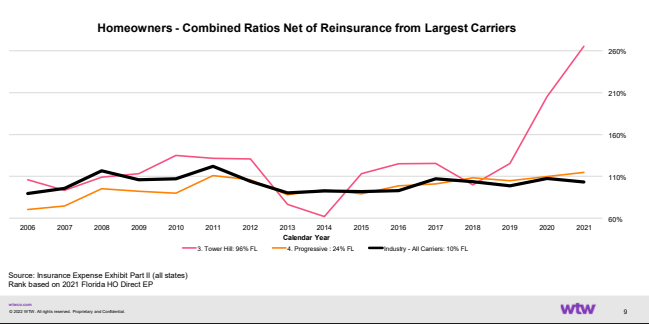
Combined Ratios of Florida Homeowners Insurers



8

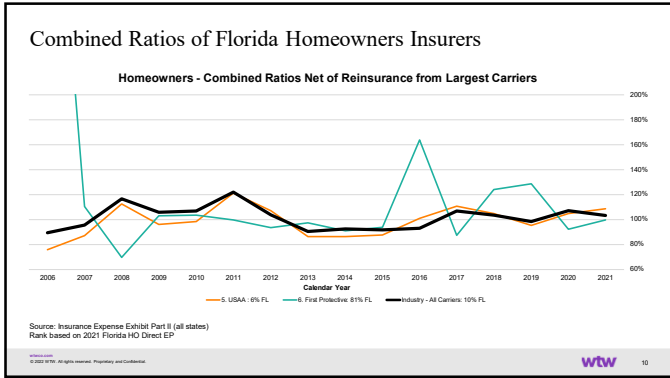


Combined Ratios of Florida Homeowners Insurers

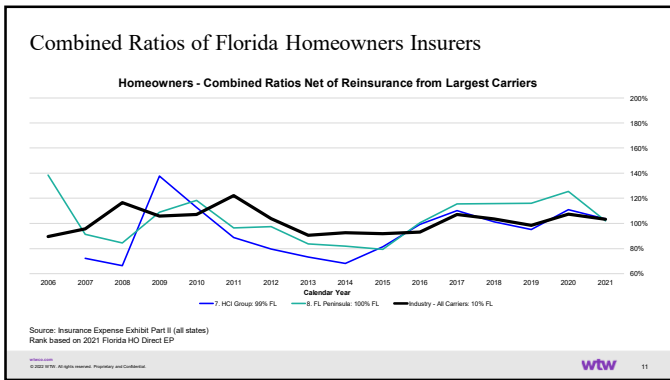
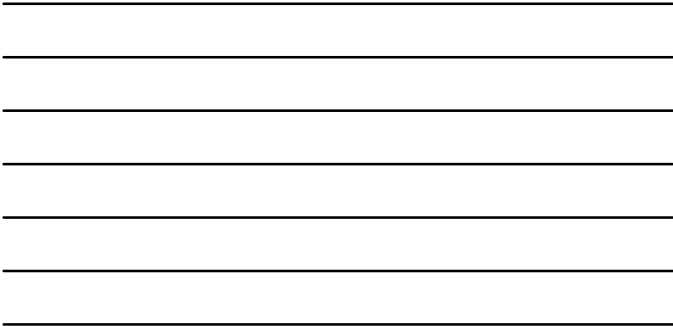


9

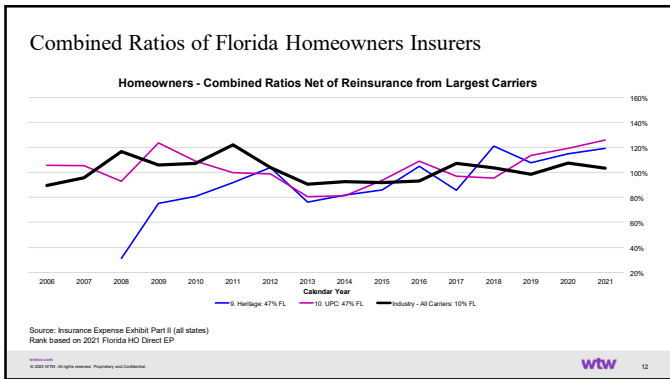
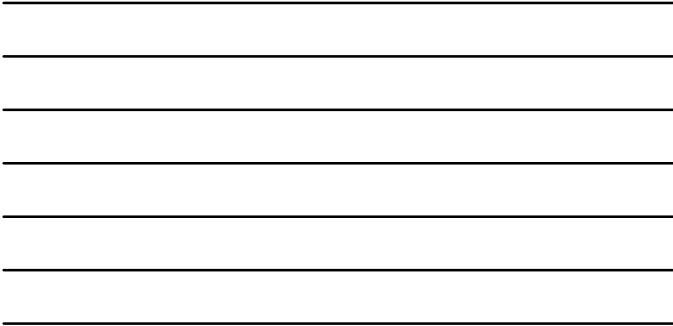




10



11



12



Market Turmoil

The involuntary market (to be discussed in more detail later) has had exponential growth due to large rate increases, insolvencies, new business restrictions and roof age restrictions

Insolvencies/runoffs since 2017	New Business Restrictions/Exits	Roof Age Restrictions
<ul style="list-style-type: none"> American Capital* Avatar* FedNat* Florida Specialty Gulfstream* Lighthouse* Sawgrass St. Johns* Southern Fidelity* United P&C* Weston* * 2021/2022 insolvencies 	<ul style="list-style-type: none"> Bankers Centauri Florida Farm Bureau Heritage Lexington Monarch Progressive Southern Oak TypTap Universal Property and Casualty 	<ul style="list-style-type: none"> American Integrity Cypress Frontline Safepoint

13

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



14

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




15

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



© 2022 WTW. All rights reserved. Proprietary and Confidential **wtw** 16

16

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

© 2022 WTW. All rights reserved. Proprietary and Confidential **wtw** 17

17

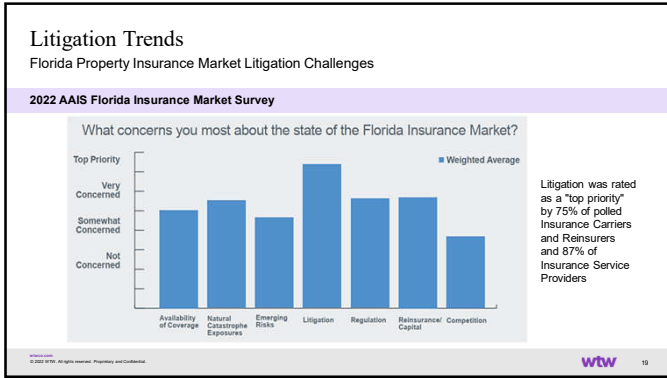
House Bill 7065

HB 7065 was designed to curb AOB abuses

- AOB must be in writing (executed assignor and the assignee)
- Like a policyholder, assignees must cooperate with insurer
- Assignees 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 assignee 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

© 2022 WTW. All rights reserved. Proprietary and Confidential **wtw** 18

18



19

Litigation Trends

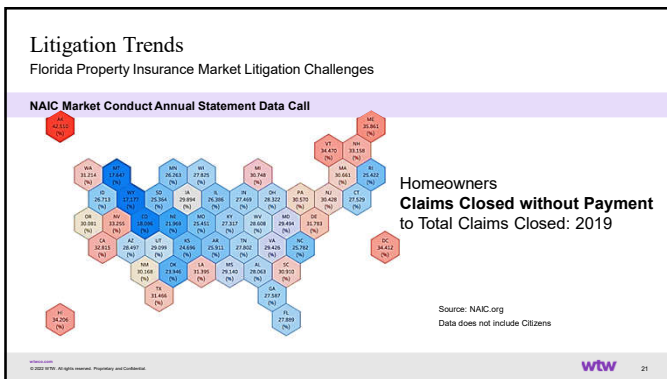
Florida Property Insurance Market Litigation Challenges

NAIC Market Conduct Annual Statement Data Call

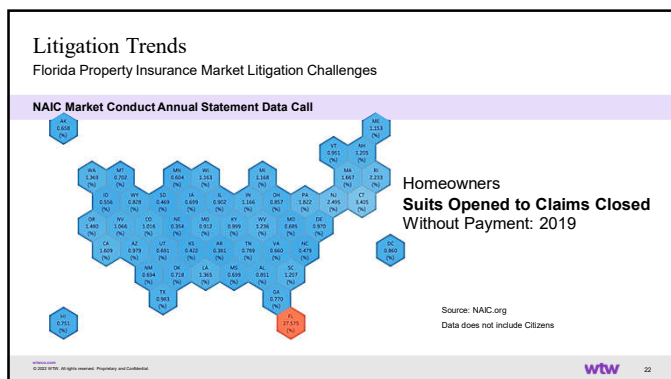
Year	Percent of Nationwide Homeowners	
	Claims Opened in Florida	Suits Opened in Florida
2016	8%	64%
2017	16%	68%
2018	12%	80%
2019	8%	76%
2020	8%	79%

wtw 20

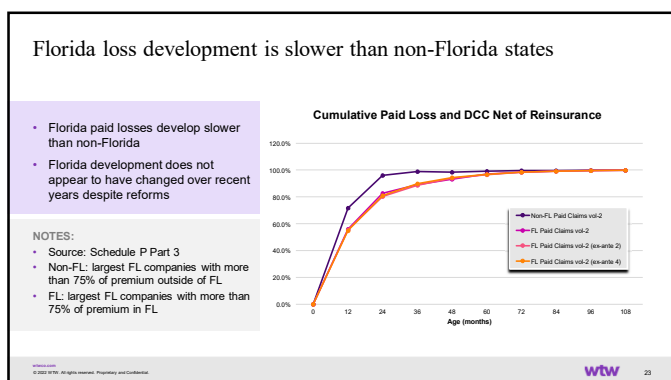
20



21



22



23

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. Prohibitions include:
 - 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

© 2022 WTW. All rights reserved. Proprietary and Confidential. **wtw** 24

24

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. Pre-suit notice must include:
- 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 for 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

25

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 in May** – Legislature passed two bills (SB 2D and 4D) signed May 26
 - Senate Bill 2D
 - Contractor solicitation prohibitions – consumer is responsible for deductible
 - Separate roof deductibles – insurance companies are allowed to offer separate roof deductible up to 2% of Coverage A limit or 50% of roof, whichever is lower
 - Roof Age - insurer may refuse to issue a new or renewal policy for roof 15 years or older
 - Insurer may not refuse policy solely based on roof age if inspection indicates roof has 5 years or more of useful life
 - Homeowner responsible for cost of inspection
 - Additional charges related to:
 - Bad faith lawsuits
 - Attorney fees related to AOB
- Senate Bill 4D
 - Roof compliance – only the part of roof being repaired must be constructed with current building code
 - Condos – inspection and maintenance requirements

26

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

27

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?

© 2022 WTW. All rights reserved. Proprietary and Confidential **WTW** 28

28

Citizens Property Insurance Corporation

Policy Count

- Citizens has used strategies over the years to reduce policies in force by encouraging private market participation
- For example, the Property Insurance Clearinghouse (authorized in 2013) identifies private-market insurance options for consumers who believe Citizens might be their only choice
- Citizens saw steady declines following the establishment of the Clearinghouse, but current market stressors are causing large increases
- As of August 5, Citizens had 1,000,624 policies. Expected policy count by year-end is 1.2 million

© 2022 WTW. All rights reserved. Proprietary and Confidential **WTW** 29

29

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 problem

© 2022 WTW. All rights reserved. Proprietary and Confidential **WTW** 30

30

Contacts

Klayton Southwood FCAS, MAAA WTW	+1 309 452 6845	Klayton.Southwood@wtwco.com
Trevar Withers ACAS, MAAA WTW	+1 330 241 1934	Trevar.Withers@wtwco.com
Missy Shelley ACAS, MAAA	+1 561 313 2947	MissyShelley76@gmail.com

© 2022 WTW. All rights reserved. Proprietary and Confidential.

wtw 31

31



32
