



**2023 Ratemaking, Product and Modeling Seminar**

**Florida Homeowners: Double Trouble**

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March 15, 2023

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**Agenda**

1. Background
2. History – litigation and reform efforts
3. Challenges facing Florida's state supported entities
4. Key Takeaways

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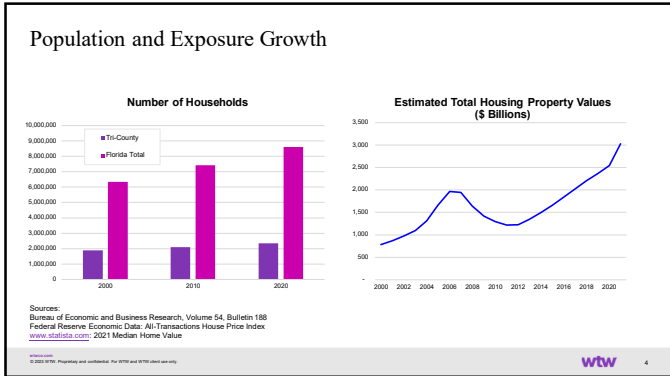
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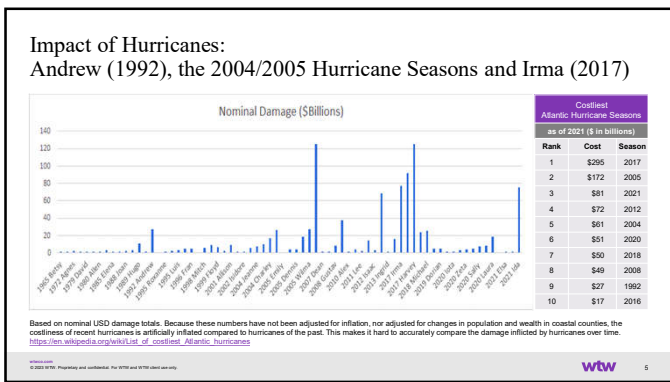
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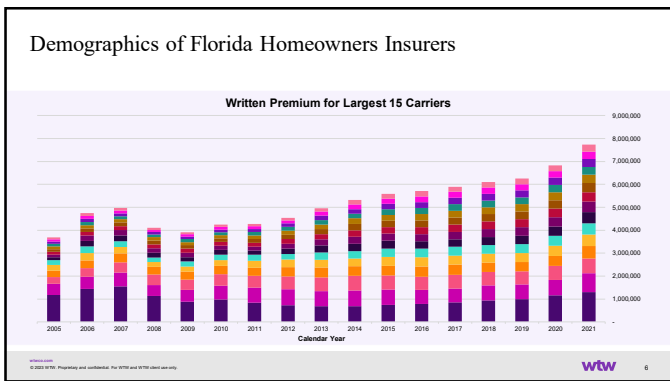
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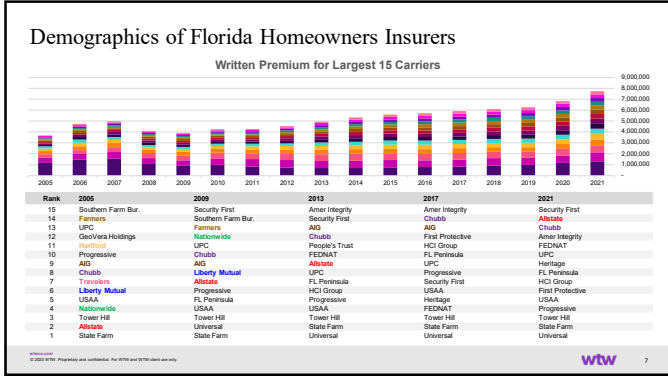
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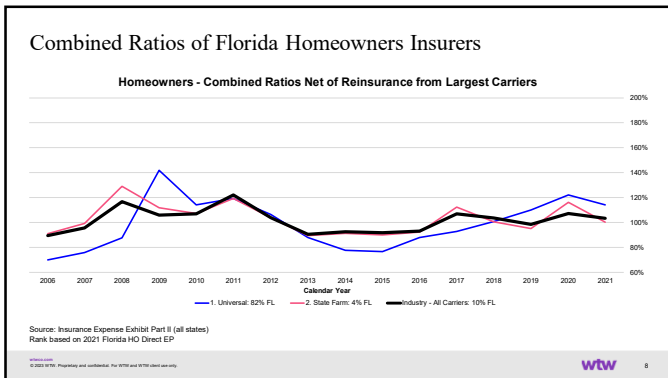
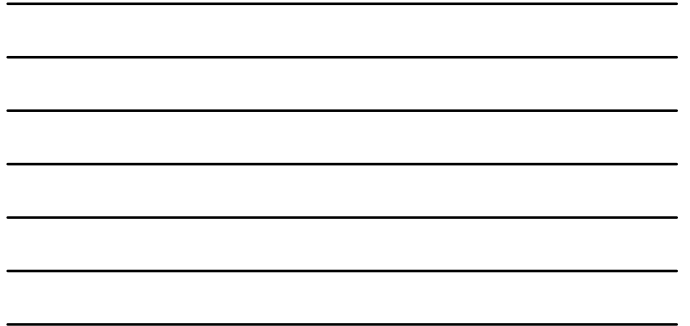
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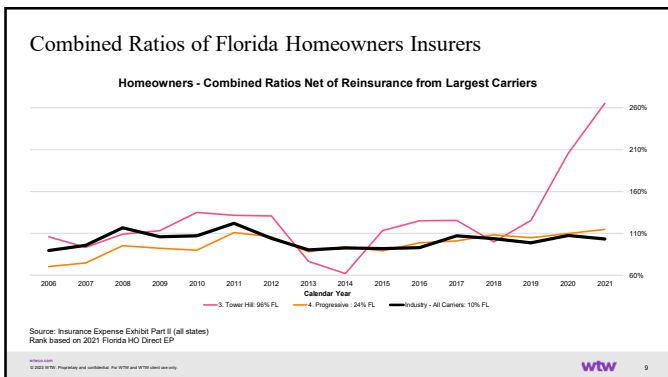
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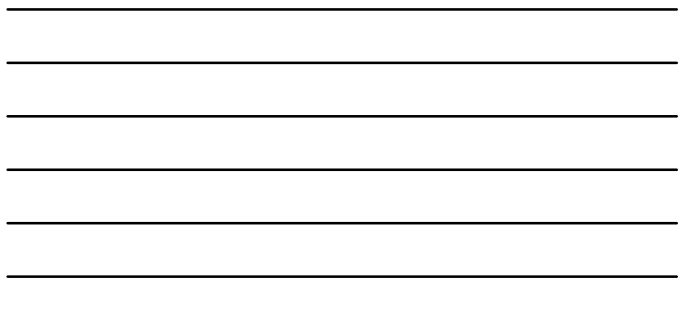
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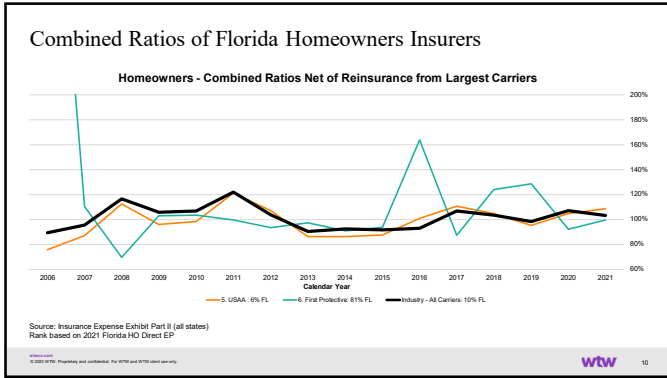


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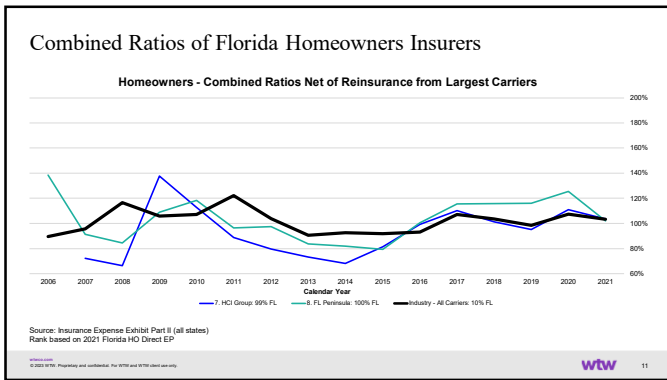
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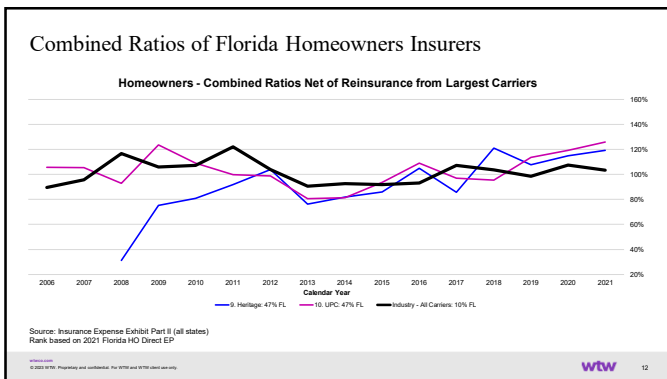
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### Florida's Residential Property Insurers

Ranked by YTD direct written premium

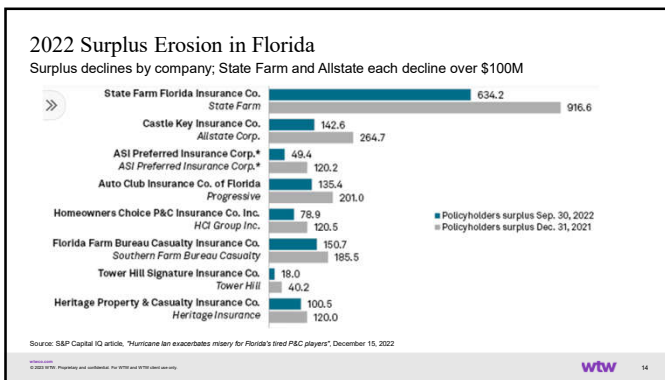
Individual insurance subsidiary	SNL P&C group name	YTD direct business			YTD net business			
		Premiums written (\$M)	YOY premium change (%)	Incurred loss ratio (%)	Premiums written (\$M)	Loss ratio (%)	Combined ratio (%)	Net Income (\$M)
Citizens Property Insurance Corp.	N/A	2,402.5	72.6	225.4	1,847.9	195.0	263.7	-2,118.1
Universal Property & Casualty Insurance Co.	Universal Insurance Holdings Inc.	1,407.4	11.2	112.8	698.2	63.0	120.6	-78.6
State Farm Florida Insurance Co.	State Farm	833.8	16.2	140.7	607.9	82.3	136.3	-164.9
First Protective Insurance Co.	N/A	690.1	26.9	194.4	191.9	38.8	104.5	4.9
Heritage Property & Casualty Insurance Co.	Heritage Insurance	522.7	2.8	164.2	220.2	63.6	117.7	-21.3
American Integrity Insurance Co. of Florida	N/A	425.6	19.6	58.3	120.2	72.6	101.7	1.1
ASI Preferred Insurance Corp.	Progressive	418.2	1.8	307.5	28.8	412.3	508.8	-87.7
Slide Insurance Co.	N/A	394.5	NA	221.7	170.8	59.6	87.1	6.5
American Coastal Insurance Co. Inc.	UPC Insurance	385.5	23.8	100.5	169.3	15.7	78.2	25.0
Homeowners Choice Property & Casualty Insurance Co. Inc.	HCI Group Inc.	346.7	21.0	184.4	130.0	60.8	131.1	-17.4
Security First Insurance Co.	N/A	307.1	1.0	82.3	64.8	55.2	105.2	-2.8
Tower Hill Insurance Exchange	Tower Hill	301.0	NA	417.6	6.9	213.0	117.0	-13.2

Source: S&P Capital IQ article, "Hurricane Ian exacerbates misery for Florida's tired P&C players", December 15, 2022

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### 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"> <li>Sawgrass (2017)</li> <li>Florida Specialty (2019)</li> <li>Gulfstream (2021)</li> <li>American Capital (2022)</li> <li>Avatar (2022)</li> <li>FedNat (2022)</li> <li>Lighthouse (2022)</li> <li>St. Johns (2022)</li> <li>Southern Fidelity (2022)</li> <li>Weston (2022)</li> <li>United P&amp;C (2023)</li> </ul>	<ul style="list-style-type: none"> <li>Bankers</li> <li>Centauri</li> <li>Florida Farm Bureau</li> <li>Heritage</li> <li>Lexington</li> <li>Monarch</li> <li>People's Trust</li> <li>Progressive</li> <li>Southern Oak</li> <li>TypTap</li> <li>Universal Property and Casualty</li> </ul>	<ul style="list-style-type: none"> <li>American Integrity</li> <li>Cypress</li> <li>Frontline</li> <li>Safepoint</li> </ul>

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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 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

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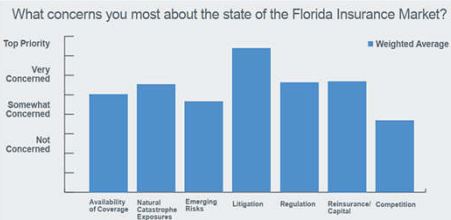
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## Litigation Trends

Florida Property Insurance Market Litigation Challenges

2022 AAIS Florida Insurance Market Survey



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	9%	79%
2021	7%	76%

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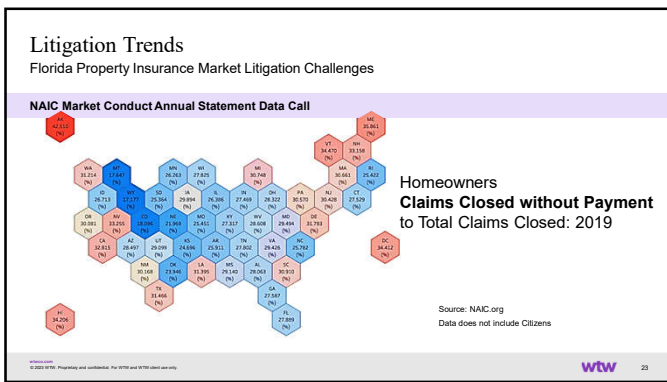
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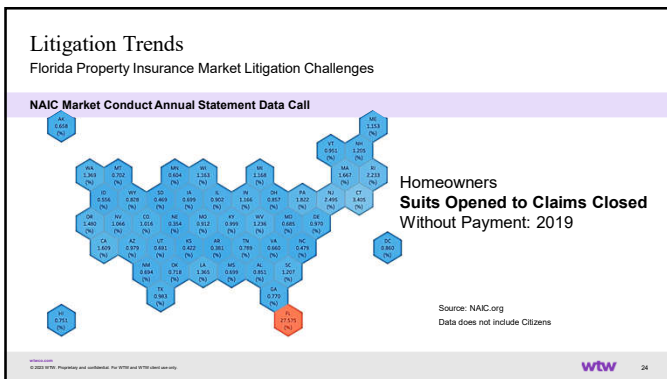
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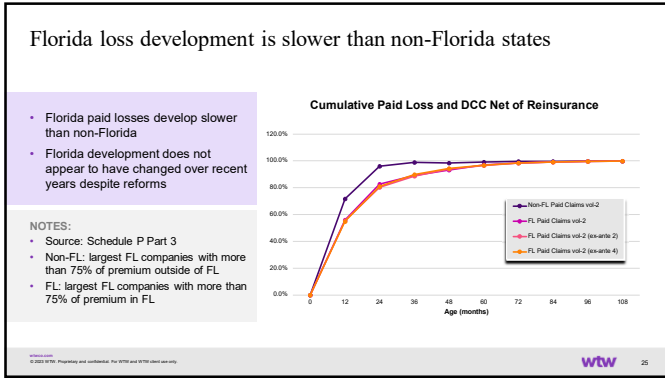
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### Senate Bill 76\*

**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 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

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### May 2022 Special Legislative Session on Property Insurance Reform

**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 changes 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

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### Hurricane Ian

**Poor timing for a stressed market**

- Fifth-strongest storm to hit the U.S. mainland since recordkeeping began over 100 years ago
- Projected economic losses around \$100 billion
- Projected insured losses of \$60 billion
- Created additional challenges for a market already in crisis
  - Reinsurance capacity
  - Rate adequacy
  - Stressed financial statements

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### December 2022 Special Legislative Session on Property Insurance Reform

**Senate Bill 2-A includes significant reforms**

- Assignment of benefits prohibited
- One-way attorney fee provisions not allowed in suits arising under residential or commercial property insurance policies
- New/reopened claim must be made within 1 year (was 2 years)
- Supplemental claim must be made within 18 months (was 3 years)
- Prompt pay requirements for insurers reduce the time:
  - to pay or deny a claim from 90 days to 60 days
  - to review and acknowledge a claim communication from 14 days to 7 days
  - to begin an investigation from 14 days to 7 days
  - to conduct a physical inspection from 45 days to 30 days (also applies to hurricane claims)
- Offer for Judgment (Proposal for Settlement)
  - Formal legal process to facilitate settlement, prior to reform, joint offers not allowed and one-way attorney fees create risk for insurer
  - Reforms make this a powerful tool for insurers to negotiate settlements and create risk for plaintiffs

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## People's Trust Insurance Company v. Polanco

### Precedent setting case?

- Insured filed a claim with homeowner's insurer: People's Trust
- People's Trust's investigation determined that certain damages were not covered and:
  - denied coverage for the roof because Hurricane Irma was not the cause of damage
  - denied coverage for interior water damage because damage was caused by age related "wear, tear, and deterioration," which was not a covered loss
  - admitted coverage for damage to the insured's soffit and fascia; however, cost of repair did not exceed the deductible
- Insured never informed People's Trust that he disputed its estimate or coverage determination
- The Circuit Court for the Seventeenth Judicial Circuit in Broward County ruled in favor of the insured for \$55,725 and awarded insured \$10,500 in attorney's fees
- People's Trust appealed to the District Court of Appeals for the Fourth District and the case was overturned. In order to collect attorney's fees one must prove: "the suit was filed for a legitimate purpose, and whether the filing acted as a necessary catalyst to resolve the dispute and force the insurer to satisfy its obligations under the insurance contract."

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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?
- Senate Bill 2-A effective January 1, 2023
  - Increased eligibility threshold: policy holders are not eligible after receiving a coverage offer less than 120% of Citizens' premium
  - Increased potential rates for risks that are not primary residences
  - Repealed rules allowing policyholders to return to Citizens at renewal

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### 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 December 31, Citizens had 1,145,811 policies, an increase of 51% during 2022

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### Key Takeaways

**Historically, reforms have not addressed the underlying problem and insurers adjusted policy forms to address the symptoms. December 2022 reforms seem targeted to address the problem**

- **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
- **December 2022 reform feels different attacking underlying cause of litigation costs**
  - Expected to reduce unreasonable awards and litigation costs

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