



Assignment of Benefits Insurance Reform – 2015 Legislative Proposals

Fact Sheet

The issue:

Assignment of benefits is a legal tool that allows a policyholder to direct their insurance company to pay a vendor directly for work performed to repair damage to a home or other property. However, in recent years, unscrupulous trial lawyers and vendors have used AOB to inflate claims and file costly lawsuits against insurance companies, driving up the cost of insurance for homeowners.

By the numbers:

- The state Department of Financial Services reports the number of all AOB lawsuits filed against insurance companies grew nearly 1,000 percent between 2005-06 and 2013-14, from 9,424 to 92,521. In 2007 and 2008, 19,154 lawsuits were filed, followed by 25,155 in 2009 and 2010. The number rose sharply in 2011 and 2012 to 85,137.
- The number of AOB lawsuits involving just homeowner property claims rose from 70 in 2009 to 2,014 last year, an increase of more than 2,700 percent in five years. Since 2006, a total of 5,193 property-related AOB lawsuits have been filed.
- In most cases, the lawsuits are filed by trial lawyers and contractors seeking to inflate the claim amount and win attorney fees that are often larger than the actual claim amount in dispute. In some cases, consumers who sign over their benefits never see the work done even though their insurance company paid the vendor.
- The problem is having an impact on Citizens Property Insurance Corp., the state-run insurer. In 2013, Citizens was hit with 1,397 AOB lawsuits. In 2014, it received 1,526.
- The worst abuse involves water claims in South Florida. In December 2014 alone, Citizens received 562 AOB lawsuits, 513 of them involving water claims and nearly all of them from Miami-Dade, Broward and Palm Beach counties. Miami-Dade had 390 lawsuits, Broward had 139 and Palm Beach had 20.
- Water claims represent half of all new reported claims for Citizens but 75 percent of all litigation. In South Florida, water claims represent 93 percent of litigation.

Fuel for the fraud:

- The single biggest factor driving the explosion of AOB-related lawsuits is that trial attorneys can collect “one-way attorney fees” when suing insurance companies over claim disputes. One-way attorney fees allow attorneys suing insurers to collect legal fees if they win but don’t allow insurers to collect fees if they prevail. One-way attorney fees were intended to level the playing field between consumers and big insurance companies but have become an incentive for attorneys and vendors to file AOB lawsuits. In the majority of AOB lawsuits, the policyholder has already been made whole and had their home or auto repaired. Rather than a “David versus Goliath” issue, it has become a battle between attorneys and vendors against insurance companies.
- Trial lawyers are holding workshops for contractors on how to use AOBs to boost their profits. A flier for a seminar in Orlando in 2013 advertises: “We’ll show you the insider secrets the insurance companies don’t want you to know!”
- Water remediation companies in South Florida and Tampa Bay are reportedly paying \$1,500 referral fees to plumbers to get business where they can use assignment of benefits. That referral fee is passed on to insurance companies in the form of inflated claims.

Strain on the system:

- The influx of AOB lawsuits is putting pressure on Florida's insurance system at a time when the state has enjoyed nine years without a hurricane. Imagine what would happen if a major storm struck, flooding the system with AOB claims and lawsuits.
- In 2014, water damage claims not related to weather accounted for the majority of Citizens' claims – 56 percent. In South Florida, those water claims made up 65 percent.
- For every dollar of insurance premium Citizens collected in 2012, 28 cents went toward water damage claims, according to the most recent figures available. Only 18 cents was set aside for claims relating to a future hurricane.
- In areas of South Florida, AOB claims average more than \$32,000 each, nearly triple the average non-AOB claim.
- If left unchecked, AOB fraud could escalate to a full-scale consumer crisis much like PIP fraud and sinkhole claims abuse.