



## CS/CS/HB 7065 Insurance Assignment Agreements

- An assignment of benefits (AOB) is a legal tool that allows a contractor, repair person, or other vendor to “stand in the shoes” of a property owner and receive the benefits under a property insurance policy for repairs to the covered property.
- Since 2006, the number of lawsuits involving AOBs has skyrocketed, generally resulting in higher payouts and litigations costs.
- These increased costs are ultimately paid for by consumers as higher insurance premiums.
- **CS/CS/HB 7065** defines assignment agreements and establishes requirements related to the execution, validity, and effect of an assignment agreement by:
  - Prohibiting AOBs from containing any fee related to the administration or rescinding of the assignment agreement.
  - Prohibiting AOBs from altering any provision in a policy related to a managed repair in a policy.
  - Transferring certain duties under the insurance contract to the assignee that must be fulfilled before filing suit.
  - Shifting the burden to the assignee to prove that any failure to carry out such duties has not limited the insurer’s ability to perform under the contract.
  - Limiting an assignee’s ability to recover certain costs from the insured.
  - Requiring the insurer to respond to the assignee’s AOB notice.
- The bill sets the formula to determine which party, if any, receives an award of attorney’s fees.
  - If the difference between the judgment and the settlement offer is less than 25 percent of the disputed amount, then the insurer is entitled to attorney fees.
  - If the difference between the judgment and the settlement offer is at least 25 percent but less than 50 percent of the disputed amount, neither party is entitled to fees.
  - If the difference between the judgment and settlement offer is at least 50 percent of the disputed amount, the assignee is entitled to attorney fees.
- The bill allows an insurer to offer a policy prohibiting or restricting assignments.
- The bill allows a court to award attorney fees to a respondent in a voluntarily dismissed action if the assignee brings an identical claim against the same respondent in a subsequent action in another court.
- The bill requires each insurer to report data on claims paid in the prior year under assignment agreements by January, 30 2022, and each year thereafter.



# HOUSE MAJORITY OFFICE

FLORIDA HOUSE OF REPRESENTATIVES



REPRESENTATIVE DANE EAGLE, MAJORITY LEADER

## Floor Amendments

- Amendment **437797** by Rommel
  - Allows the assignor to rescind an AOB without penalty or fee by submitting written notice of rescission within 14 days after execution, and updates the required notice language in an AOB to reflect the 14 day period.
  - Adds that AOBs can signed in emergency situations, provided that an assignee may not receive post-loss benefits under a residential property insurance policy in excess of the greater of \$3,000 or 1 percent of the Coverage A limit under such policy.
    - Emergency situations are those in which a loss to property, if not addressed immediately, will result in additional damage until measures are completed to prevent such damage
  - Provides that an AOB does not transfer or create any authority to adjust, negotiate, or settle any portion of a claim to a person or entity not authorized to adjust, negotiate, or settle a claim on behalf of an assignor or a claimant under part VI of chapter 626
  - Makes that the named insured be responsible for the payments of deductibles
  - Requires that the assignee provide the named insured with notice and a detailed written invoice before filing suit
  - Provides that an assignments entitles the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received written notice of some interest in the policy in conflict with the assignment
  - Ensures that Citizens Property Insurance Corporation passes post-AOB premium savings resulting from the AOB reforms in the bill onto ratepayers by prohibiting Citizens from implementing rate changes in 2019 for tenant occupied property policies (DP-3) and homeowners' insurance policies (HO-3) unless the rate filing reflects projected savings from this act.
  - Such rate filing must include an exhibit demonstrating the impact of this act on indicated rates for DP-3 and HP-3 policies
  - Citizens Property Insurance shall provide policyholders with details on the projected savings from the AOB reforms.
- Amendment to the Amendment **738325** by Rommel
  - Removes the language relating to assignment agreements under comprehensive or combined additional coverage under a motor vehicle insurance policy for replacing auto glass.

**STATUS:** Amendments will be heard and voted on during Second Reading on April 10, 2019