

Florida Demographic and Legislative Update

FHCF Annual Participating Insurer Workshop

Fred Karlinsky
Greenberg Traurig, P.A.
karlinskyf@gtlaw.com

June 13, 2023 | 10:35 a.m. ET



FLORIDA HURRICANE
CATASTROPHE FUND

Disclaimer

The materials in this presentation are intended to provide a general overview of the issues contained herein and are not intended nor should they be construed to provide specific legal or regulatory guidance or advice. If you have any questions or issues of a specific nature, you should consult with appropriate legal or regulatory counsel to review the specific circumstances involved.

Anti-Trust Statement

The presenters and hosts require strict adherence to the letter and spirit of the anti-trust laws. Presentations conducted in person are designed solely to provide a forum for the expression of various points of view on the topic for such presentation. Under no circumstances shall any presentation be used as a means for competing companies or firms to reach any understanding—expressed or implied—which restricts competition or in any way impairs the ability of companies or firms to exercise independent business judgment regarding matters affecting competition. It is the responsibility of all participants to be aware of anti-trust regulations and anti-trust compliance policies and to prevent any type of discussion—written or verbal—that violate the same.

Fred E. Karlinsky

Shareholder & Global Co-Chair,
Insurance Regulatory & Transactions
Practice

Greenberg Traurig, P.A.

(954) 768-8278

Karlinskyf@gtlaw.com




Biography

Fred Karlinsky is a Shareholder and Co-Chair of Greenberg Traurig's Global Insurance Regulatory and Transactions Practice Group. Fred has nearly 30 years of experience representing the interests of insurers, reinsurers, and a wide variety of other insurance-related entities. He is a recognized authority on national insurance regulatory and compliance issues, has taken a leadership position in many insurance trade organizations, and has been listed in The Best Lawyers in America, Super Lawyers, Florida Trend 500, and Florida Trend's "Legal Elite" for his work in insurance law.

Recognized as the only Band 1 Florida insurance lawyer by Chambers & Partners and one of the most influential leaders in Florida politics by City & State Florida and INFLUENCE Magazine, Fred has in-depth knowledge of insurance compliance matters and has been a primary strategist in virtually all types of Florida insurance-related legislative initiatives. In addition to his role with Greenberg Traurig, Fred has been an Adjunct Professor of Law at Florida State University College of Law since 2008. Since 2014 Fred has served on and currently chairs the Florida Supreme Court Judicial Nominating Commission (JNC), where five of the seven current sitting Justices of the Florida Supreme Court have been appointed during Fred's tenure on the JNC.

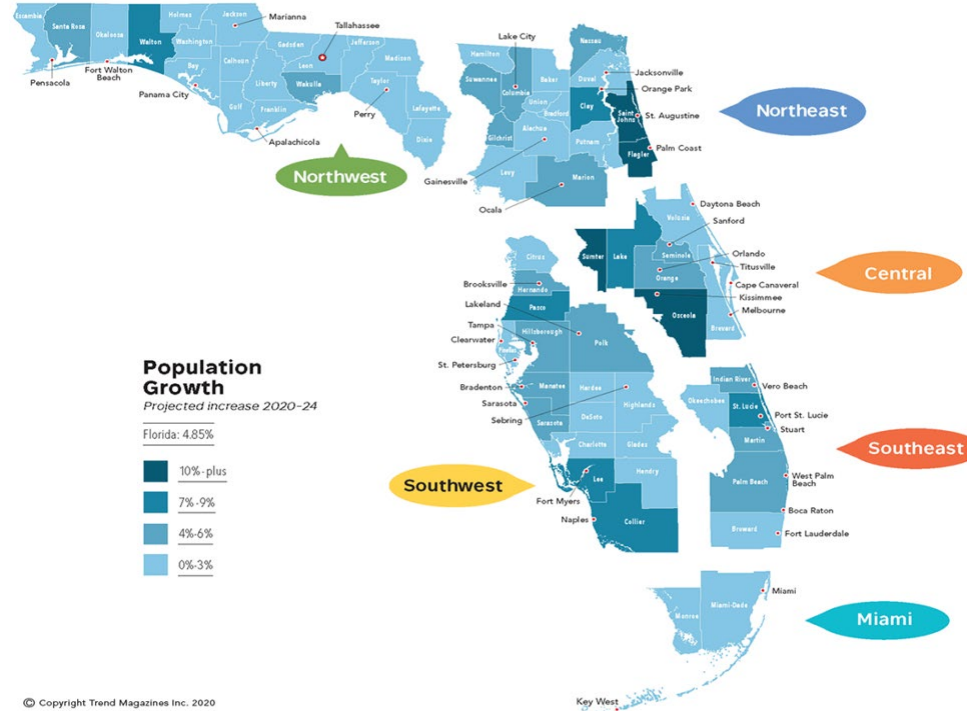
Agenda

- Demographics & 2022 Florida Election Recap
- Key Leaders Impacting Florida's Insurance Market
- Florida's Insurance Marketplace
- Past Legislative Reforms
- 2023 Legislative Session
- What's Next?



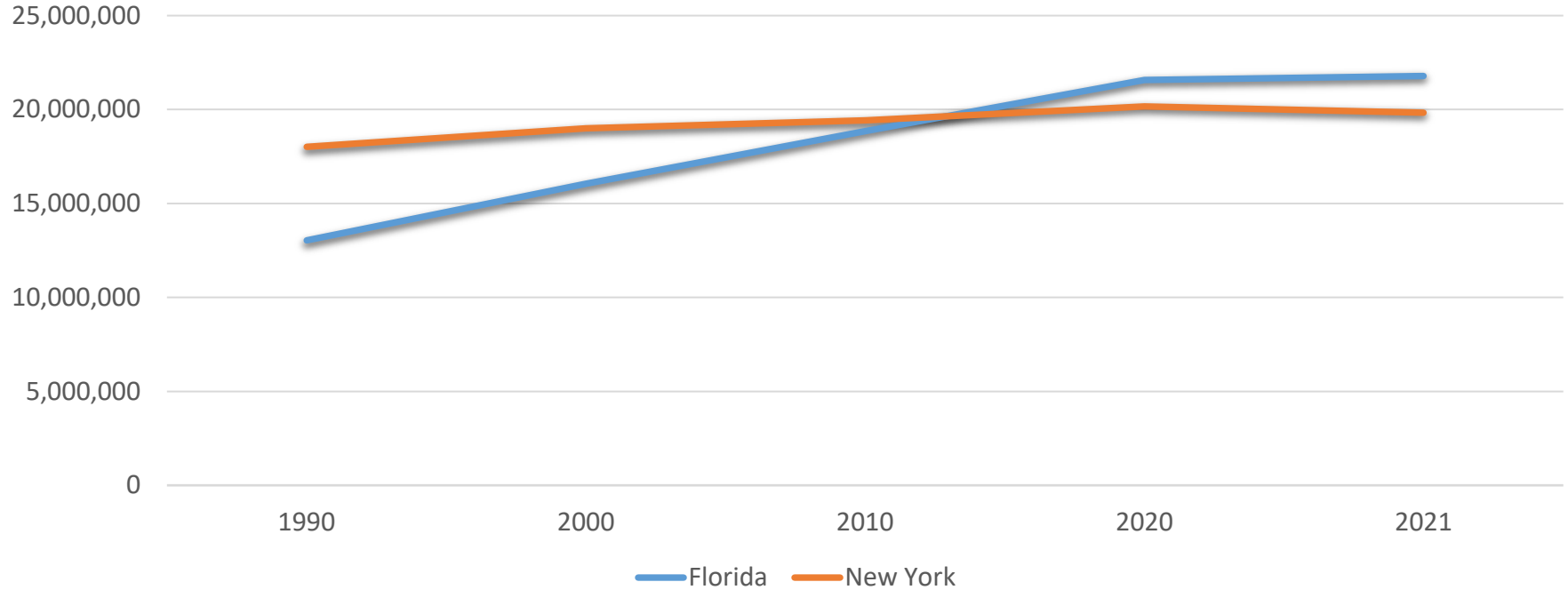
Demographics and 2022 Florida Election Recap

Population



Population

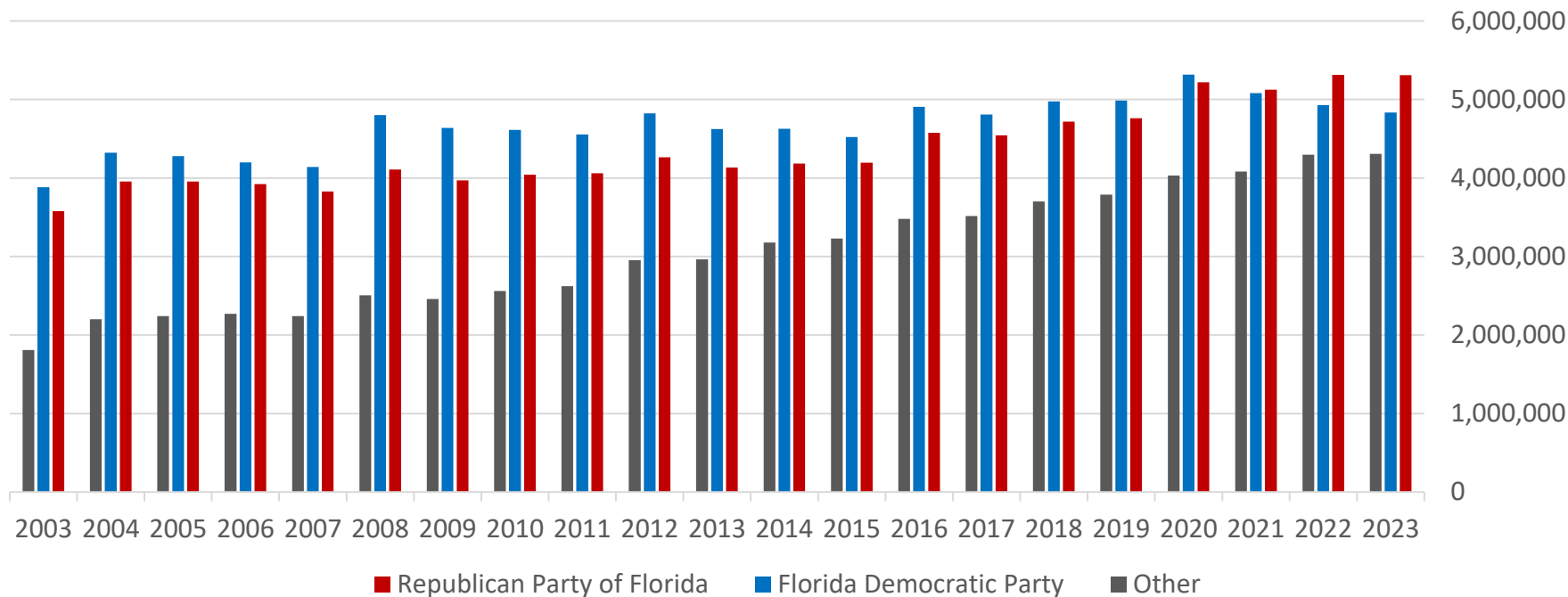
Florida v. New York



2022 Election Breakdown

- Eligible Active Registered Voters – 14,536,811
- Voter Turnout – 7,784,176
- Turnout Percentage – 53.67%
- Registered Democrats – 4,928,168
- Registered Republicans – 5,312,122

Voter Registration (by Party Affiliation)



Florida Senate

District	Winner
District 1	Doug Broxson (R)
District 2	Jay Trumbull (R)
District 3	Corey Simon (R)
District 4	Clay Yarborough (R)
District 5	Tracie Davis (D)
District 6	Jennifer Bradley (R)
District 7	Travis Hutson (R)
District 8	Tommy Wright (R)
District 9	Keith Perry (R)
District 10	Jason Brodeur (R)
District 11	Blaise Ingoglia (R)
District 12	Colleen Burton (R)
District 13	Dennis Baxley (R)
District 14	Jay Collins (R)
District 15	Geraldine Thompson (D)
District 16	Darryl Rouson (D)
District 17	Linda Stewart (D)
District 18	Nick DiCeglie (R)
District 19	Debbie Mayfield (R)

District 20	Jim Boyd (R)
District 21	Ed Hooper (R)
District 22	Joe Gruters (R)
District 23	Danny Burgess (R)
District 24	Bobby Powell (D)
District 25	Victor Torres (D)
District 26	Lori Berman (D)
District 27	Ben Albritton (R)
District 28	Kathleen Passidomo (R)
District 29	Erin Grall (R)
District 30	Tina Polsky (D)
District 31	Gayle Harrell (R)
District 32	Rosalind Osgood (D)
District 33	Jonathan Martin (R)
District 34	Shevrin Jones (D)
District 35	Lauren Book (D)
District 36	Ileana Garcia (R)
District 37	Jason Pizzo (D)
District 38	Alexis Calatayud (R)
District 39	Bryan Avila (R)
District 40	Ana Maria Rodriguez (R)

Florida House of Representatives

District	Winner
District 1	Michelle Salzman (R)
District 2	Alex Andrade (R)
District 3	Joel Rudman (R)
District 4	T. Patt Maney (R)
District 5	Shane Abbott (R)
District 6	Philip Griffiths (R)
District 7	Jason Shoaf (R)
District 8	Gallop Franklin (R)
District 9	Allison Tant (D)
District 10	Chuck Brannan (R)
District 11	Sam Garrison (R)
District 12	Wyman Duggan (R)
District 13	Angie Nixon (D)
District 14	Kimberly Daniels (D)
District 15	Dean Black (R)
District 16	Kiyan Michael (R)
District 17	Jessica Baker (R)
District 18	Cyndi Stevenson (R)
District 19	Paul Renner (R)
District 20	Bobby Payne (R)

District 21	Yvonne Hinson (D)
District 22	Chuck Clemons (R)
District 23	Ralph Massullo Jr. (R)
District 24	Joe Harding (R)
District 25	Taylor Yarkosky (R)
District 26	Keith Truenow (R)
District 27	Stan McClain (R)
District 28	Tom Leek (R)
District 29	Webster Barnaby (R)
District 30	Chase Tramont (R)
District 31	Tyler Sirois (R)
District 32	Thad Altman (R)
District 33	Randy Fine (R)
District 34	Robert Brackett (R)
District 35	Fred Hawkins (R)
District 36	Rachel Plakon (R)
District 37	Susan Plasencia (R)
District 38	David Smith (R)
District 39	Doug Bankson (R)
District 40	LaVon Bracy Davis (D)
District 41	Bruce Antone (D)

District 42	Anna Eskamani (D)
District 43	Johanna Lopez (D)
District 44	Jennifer Harris (D)
District 45	Caroline Amesty (R)
District 46	Kristen Arrington (D)
District 47	Paul Stark (R)
District 48	Sam Killebrew (R)
District 49	Melony Bell (R)
District 50	Jennifer Canady (R)
District 51	Josie Tomkow (R)
District 52	John Temple (R)
District 53	Jeff Holcomb (R)
District 54	Randy Maggard (R)
District 55	Kevin Steele (R)
District 56	Brad Yeager (R)
District 57	Adam Anderson (R)
District 58	Kim Berfield (R)
District 59	Berny Jacques (R)
District 60	Lindsay Cross (D)
District 61	Linda Chaney (R)
District 62	Michele Rayner (D)

Florida House of Representatives

District 63	Dianne Heart (D)
District 64	Susan Valdes (D)
District 65	Karen Gonzalez Pitman (R)
District 66	Traci Koster (R)
District 67	Fentrice Driskell (D)
District 68	Lawrence McClure (R)
District 69	Daniel Alvarez (R)
District 70	Mike Beltran (R)
District 71	Will Robinson (R)
District 72	Tommy Gregory (R)
District 73	Fiona McFarland (R)
District 74	James Buchanan (R)
District 75	Michael Grant (R)
District 76	Spencer Roach (R)
District 77	Tiffany Esposito (R)
District 78	Jenna Persons-Mulicka (R)
District 79	Mike Giallombardo (R)
District 80	Adam Botana (R)
District 81	Bob Rommel (R)
District 82	Lauren Melo (R)
District 83	Kaylee Tuck (R)

District 84	Dana Trabulsy (R)
District 85	Toby Overdorf (R)
District 86	John Snyder (R)
District 87	Mike Caruso (R)
District 88	Jervonte Edmonds (D)
District 89	David Silvers (D)
District 90	Joe Casello (D)
District 91	Peggy Gossett-Seidman (R)
District 92	Kelly Skidmore (D)
District 93	Katherine Waldron (D)
District 94	Rick Roth (R)
District 95	Christine Hunschofsky (D)
District 96	Dan Daley (D)
District 97	Lisa Dunkley (D)
District 98	Patricia Hawkins-Williams (D)
District 99	Daryl Campbell (D)
District 100	Chip LaMarca (R)
District 101	Hillary Cassel (D)
District 102	Michael Gottlieb (D)
District 103	Robin Bartleman (D)
District 104	Felicia Simone Robinson (D)

District 105	Marie Woodson (D)
District 106	Fabian Basabe (R)
District 107	Christopher Benjamin (D)
District 108	Dotie Joseph (D)
District 109	Ashley Gantt (D)
District 110	Tom Fabricio (R)
District 111	David Borrero (R)
District 112	Alex Rizo (R)
District 113	Vicki Lopez (R)
District 114	Demi Busatta Cabrera (R)
District 115	Alina Garcia (R)
District 116	Daniel Anthony Perez (R)
District 117	Kevin Chambliss (D)
District 118	Juan Fernandez-Barquin (R)
District 119	Juan Carlos Porras (R)
District 120	Jim Mooney (R)

The background of the slide features a stylized, low-angle view of several skyscrapers. The buildings are rendered in a golden-brown color with a repeating pattern of horizontal lines on their facades, creating a sense of depth and architectural scale. They frame a central, slightly irregular shape that represents the sky. This central area has a lighter, warm yellowish-gold hue and contains faint, wispy white clouds. The overall composition is symmetrical and modern, with a professional and corporate feel.

Key Leaders Impacting Florida's Insurance Market

Governor Ron DeSantis



Lieutenant Governor Jeanette Nuñez



Chief Financial Officer Jimmy Patronis



Attorney General Ashley Moody



Agriculture Commissioner Wilton Simpson



Insurance Commissioner Mike Yaworsky



Legislative Leadership

Senate President Kathleen Passidomo



House Speaker Paul Renner





Florida's Insurance Marketplace

General Market Conditions

- Litigious Environment
- Insolvencies
- Net underwriting losses exceeding \$1B each year
- No Replacement Capacity

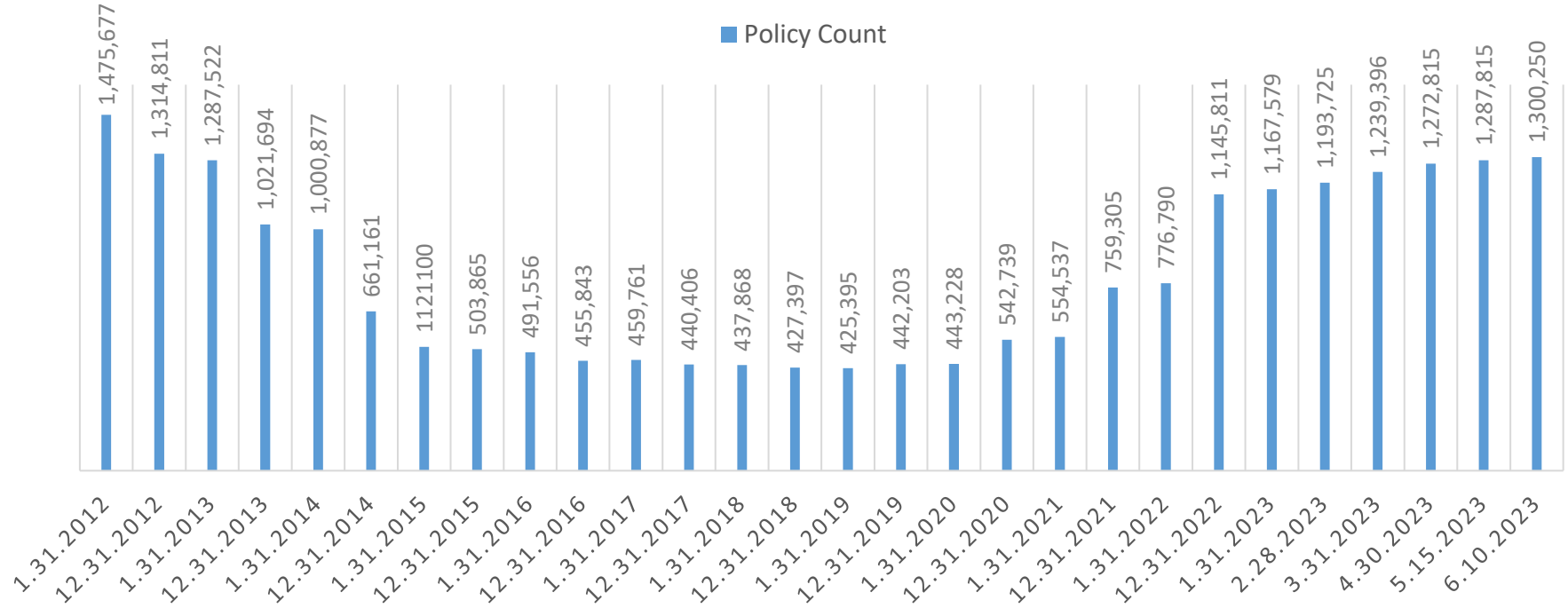
Man Made Problems



Insolvencies

- United Property & Casualty Insurance Company – February 6, 2023
- FedNat Insurance Company – September 27, 2022
- Weston Property and Casualty Insurance Company – August 8, 2022
- Southern Fidelity Insurance Company – June 15, 2022
- Lighthouse Property Insurance Corporation – April 28, 2022
- Avatar Property and Casualty Insurance Company – March 14, 2022
- St. Johns Insurance Company- February 25, 2022
- Gulfstream Property and Casualty Insurance – July 28, 2021
- American Capital Assurance Corporation – April 14, 2021
- Florida Specialty Insurance Company – October 2, 2019
- Sawgrass Mutual Insurance Company- October 1, 2018

Citizens Property Insurance Corporation



Citizens Property Insurance Corporation

- The board of Florida's Citizens Property Insurance Corporation recently secured \$750 million of named storm reinsurance protection for the 2023 hurricane season with this dual-series issuance of Everglades Re II Ltd. (Series 2023-1 & 2023-2) notes, with the prices fixed within the initial guidance.

Hurricane Ian Claims

Total Estimated Insured Losses: \$13,937,676,794

OIR required insurers report estimated and paid losses. Estimated or case incurred losses include indemnity case reserves and payments to date.

Lines of Business	Number of Claims Reported	Number of Open Claims with Payment	Number of Open Claims without Payment	Number of Claims Closed with Payment	Number of Claims Closed without Payment	Percent of Claims Closed
Residential Property	494,078	67,911	41,165	238,843	146,159	77.9%
Homeowners	397,966	55,923	33,486	183,235	125,322	77.5%
Dwelling	52,390	7,397	4,173	26,498	14,322	77.9%
Mobile Homeowners	40,809	4,172	2,769	28,094	5,774	83.0%
Commercial Residential	2,913	419	737	1,016	741	60.3%
Commercial Property	32,869	5,381	13,782	5,189	8,517	41.7%
Private Flood	4,852	1,096	670	2,039	1,047	63.6%
Business Interruption	493	52	79	275	87	73.4%
Other Lines of Business*	175,963	6,927	6,333	138,515	24,188	92.5%
TOTALS	708,255	81,367	62,029	384,861	179,998	79.8%

Data as of March 9, 2023



Past Legislative Reforms

HB 7065 – 2019

Insurance Assignment Agreements

- Established requirements for the execution, validity, effect, and rescission of an AOB;
- Capped the amount an assignee can receive under an AOB for a residential property insurance claim executed in an emergency;
- Allowed a policy prohibiting an AOB, in whole or in part, under certain conditions;
- Transferred pre-lawsuit duties under an insurance contract to the assignee;
- Set a formula that determine which party, if any, receives an award of attorney fees in litigation related to an AOB.

SB 76 – 2021

Property Insurance Reform

- Required a claimant to provide written notice of intent to initiate litigation at least 10 days before filing suit;
- Created a strong presumption that a lodestar fee is sufficient and reasonable in claims arising under a property insurance policy issued by a surplus lines carrier;
- Established a Demand-Judgment Quotient for the award of attorney fee in a property insurance lawsuit;
- Provided for the use of a roof covering reimbursement schedule a personal lines residential property insurance policy.

2022 Special Session D

- The Florida Legislature concluded a Special Legislative Session on May 26, 2022, specifically to address property insurance.
- The Legislature passed two bills – Senate Bill 2D and Senate Bill 4D.
- Governor DeSantis signed each on May 26, 2022.

2022 Special Session D

- SB-2D: Property Insurance
 - Enacts pro-consumer measures to help alleviate rising insurance costs, increases insurance claim transparency, and cracks down on frivolous lawsuits which drive up costs for all Floridians.
 - Specific provisions include:

2022 Special Session D

- **RAP Program**

- \$2 billion in reinsurance relief through the Reinsurance to Assist Policy (RAP) program to benefit policyholders over the next two years. The program requires insurance companies to file a supplemental rate filing once enrolled in the program to provide relief to policyholders.

2022 Special Session D

- **My Safe Florida Home Program**
 - \$150 million for the My Safe Florida Home Program to provide grants to Florida homeowners for hurricane retrofitting, making homes safer and more resistant to hurricane damage, which can result in premium discounts for those who participate in the program.

2022 Special Session D

- **My Safe Florida Home Program**

- The Florida Department of Financial Services (DFS) provided an update on the My Safe Florida Home (MSFH) program on March 16.
- Since launching in November 2022, the MSFH Program has already completed over 18,000 free home inspections, approved over 3,500 grant applications, and obligated more than \$33 million in Home Mitigation Grants. Obligated funds are grant funds that have been identified for a specific applicant and will be processed as a reimbursement to the homeowner once the work has been completed.
- The program is expected to fully obligate all \$115 million to homeowners well before the end of the current Fiscal Year (FY) that ends on June 30, 2023. Currently, SB 748 and HB 881, which expands program eligibility, are moving through the Legislature and DFS is requesting another \$100 million in grant funding for FY 23-24.

2022 Special Session D

- **Roof claims**

- Prohibiting insurance companies from denying coverage solely based on the age of a roof if the roof is less than 15 years old or if the roof is determined to have at least 5 years of useful life remaining. The bill further prohibits contractors from making written or electronic communications that encourage or induce a consumer to contact a contractor or public adjuster for the purposes of making a property insurance claim for roof damage unless such solicitation provides certain notices.

2022 Special Session D

- **Adjustment of claims**

- The bill requires insurance companies to provide policyholders with a reasonable explanation if they deny or partially deny a claim and provides consumers with greater access to information during the claim adjustment process. More specifically, SB D2 requires property insurers to conduct any physical inspection of the property related to a claim within 45 days of receiving proof of loss statements. This provision does not apply to hurricane claims, however.

2022 Special Session D

- SB-2D further requires insurers to notify policyholders of their right to receive any detailed report generated by an insurer's adjuster that estimates the amount of the loss.

2022 Special Session D

- SB-4D: Building Safety:
 - Creates new requirements for condominium and co-op buildings three or more stories tall.
 - The bill requires that the Florida Building Code to stipulate that when 25 percent or more of a roofing system or roof section is being repaired, replaced, or recovered, only the portion of the roofing system or roof section undergoing such work must be constructed in accordance with the current Florida Building Code in effect at that time.

2022 Special Session A

- The Florida Legislature convened for a Special Session specifically to address property insurance and other topics starting December 12, 2022.
- Legislature passed Senate Bill 2A, which made sweeping changes to the property insurance claims process, reinsurance, regulation of insurance companies and more.
- Governor DeSantis signed on December 16, 2022.

2022 Special Session A

- SB-2A: Property Insurance
 - Eliminates one-way attorney's fees, banishes assignments of benefits (AOBs), allows for mandatory binding arbitration clauses in policies, requires an adverse adjudication for breach of contract to have been rendered against the insurer before the filing of a bad faith action.
 - Reduces the deadline for policyholders to report a claim from 90 days to 60 days after the insurer receives notice of the claim, or after the expiration of any additional timeframe provided to pay or deny a claim made pursuant to an order of OIR finding factors beyond the control of the insurer, whichever is later.



2023 Legislative Session

FY 2023-24 State Budget

- Framework for Freedom Budget (FY 2023-24): \$114.8 billion
 - General Revenue: \$42.4 billion
 - Total Reserves: \$15.7 billion
- Record Taxpayer Savings
- Freedom in Education
- Protecting Natural Resources
- Investing in Infrastructure
- Building a Robust Public Health Network

Top 10 Most Disclosed Bills of the 2023 Legislative Session

- SB 102 – Housing
- HB 401 – Sovereign Immunity
- HB 543 – Public Safety
- SB 2500 – Appropriations
- HB 627 – Housing
- SB 604 – Sovereign Immunity
- HB 837 – Civil Remedies
- SB 170 – Local Ordinances
- HB 3 – Government and Corporate Activism
- SB 150 – Public Safety

HB 837

Civil Remedies

- Eliminates one-way attorney fees for all lines of insurance;
- Creates presumption that Lodestar fees are reasonable and allows attorney fee multipliers only in rare and exceptional circumstances;
- Provides a safe harbor from Bad Faith, clarifies that negligence alone is not Bad Faith, and requires claimants to act in Good Faith;
- Changes Florida's comparative negligence system from a "pure" comparative negligence system to a "modified" system, except for medical negligence cases;
- Reduces the statute of limitations for general negligence cases from 4 years to 2 years;
- Sets standards for awarding medical damages to prevent fraudulent practices to include requiring medical records, procedure codes, and information regarding health insurance reimbursement to ensure accurate settlements are reached between parties.

SB 7052

Insurer Accountability

- Clarifies that bills passed during Special Session A in December 2023 are not retroactive;
- Requires that property insurance and motor vehicle rate filings must include, and FOIR must consider in reviewing rates, the combined effect of recent legislative reforms;
- Requires insurers to annually submit their claims manuals to the OIR and attest that the manual comports to usual and customary industry claims handling practices.

SB 7052

Insurer Accountability

- Enhances OIR's ability to conduct market conduct exams;
- Prohibits altering or amending adjuster's report without including list of changes, who made change, and explanation of any change that reduces coverage;
- Increases maximum fines by 250% generally, and 500% for violations stemming from state of emergency such as a hurricane;
- Specifies that insurance fraud referrals may be made to statewide prosecutor for crimes that impact two or more judicial circuits.

SB 1002

Motor Vehicle Glass

- Makes changes to the Florida Motor Vehicle Repair Act
 - Regulates the calibration or recalibration of advanced driver assistance systems when replacing or repairing automobile windshields;
 - Prohibits policyholders from entering into an assignment agreement of post-loss benefits for motor vehicle glass replacement or repair
 - Creates s. 627.7290, Florida Statutes which stipulates that no person may require a claimant to use a particular company for motor vehicle windshield glass replacement, repair, or calibration services under a personal lines automobile insurance policy.

HB 793

Collateral Protection Insurance on Real Property

- Addresses concerns surrounding pricing of Lender-Placed Insurance
- Based on NAIC Real Property Lender-Placed Insurance Model Act
- Florida: Lender Placed Insurance = Collateral Protection Insurance (CPI)
- Creates a new part (Part XXII) of ch. 627, F.S., for the purposes of:
 - Regulating CPI on real property
 - Establishing a legal framework for the writing of CPI on real property in Florida
 - Maintaining separation between lenders or servicers, and insurers or insurance agents
 - Minimizing the possibilities of unfair practices in the sale, placement, or solicitation, and negotiation of CPI

HB 3

Environmental, Social, and Corporate Governance (ESG)

- Blocks the use of ESG in all investment decisions at the state and local level, ensuring that only financial factors are considered to maximize the return on investment;
- Eliminates consideration of ESG factors by state and local governments when issuing bonds;
- Directs the Attorney General and Commissioner of Financial Regulation to fully enforce these provisions of the law;
- Bans the financial sector from considering so called “Social Credit Scores” in banking and lending practices.



What's Next?

Civil Remedies Legislation Fallout

- Plaintiff's lawyers in Florida flooded the courthouse with new lawsuits trying to get the suits filed prior to the effective date of the new law.
- The Florida Bar noted that 280,000 new suits were filed in April.
- Matt Morgan, a partner at Morgan and Morgan, sent a firm-wide email instructing Firm attorneys to show no courtesies to insurance defense attorneys.
- John Morgan, head of the firm, said in a recent statement to Insurance Journal: "At this moment we are doing what all lawyers should be doing – protecting the interests of our clients."

Civil Remedies Legislation Fallout

- Billboard lawyers are already mounting an assault on other states following Florida's major tort reform package.
- Morgan & Morgan is flooding markets with billboards.
- Morgan & Morgan expects its yearly ad budget in Detroit to exceed \$20 million in the next two to three years.
- Likely to prey on other states and Judicial Hellholes.



Questions?

Contact

Fred E. Karlinsky, Esq.

Shareholder & Global Co-Chair, Insurance
Regulatory & Transactions Practice

Greenberg Traurig, P.A.

(954) 768-8278

Karlinskyf@gtlaw.com

