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LEGISLATURE TAKES LITTLE STEPS IN 2018 TO REFORM ASSIGNMENT LAW

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Assignments of Benefits (or AOB's) have been a thorn in the side of insurance companies for the past several years. For those unfamiliar with the practice, certain professionals such as emergency mitigation contractors will require an assignment of insurance benefits from homeowners before they perform any services. Once the company completes their services, they direct bill the homeowner's insurance company under the AOB. Oftentimes in these circumstances, there is no agreement as to the scope of the services before the company obtains the assignment, leading to an unnegotiated invoice being sent to the insurance company for payment. The percentage of claims filed under an AOB has grown significantly since 2015 according to Florida's Office of Insurance Regulation.

Several sweeping reform bills to prohibit this practice failed to gain traction in Florida's Legislature earlier this year. Senate Bill 1168, which was defeated in the Rules Committee, attempted to make several changes to assignment law. Some of those changes included a requirement that an assignment must include a statement of the scope of work to be performed and the assignment must be provided to the insurance company within five days after execution.

Senate Bill 62, which did not survive the Banking and Insurance committee's review, pushed for even greater reform. In addition to similar changes as proposed in SB 1168, SB 62 would have eliminated the ability of assignees to recover attorney's fees awarded following a judgment received against an insurance company. This would have drastically changed existing Florida insurance law, which allows the recovery of attorney's fees to a prevailing assignee, had it passed.

As a consolation prize for insurance companies, the Legislature instead passed House Bill 465 amending Florida Statute 627.7015, which sets forth the alternative procedure for resolution of disputed property insurance claim. The statute was amended to state that an insurance company is not required to participate in mediation of a property insurance claim requested by an assignee under an AOB.

With this change, companies who receive an AOB from an insured, cannot force an insurance company into mediation. While a far cry from the reform sought by the insurance industry, this change provides some control to insurance companies by allowing them to refuse mediation in a disputed claim where the assignee demands mediation.

Should you have any questions or concerns about how this new law may impact your insurance claim, please do not hesitate to contact Michael J. Higer, Gina Clausen Lozier, Gavin Gaukroger, or Christopher Choquette on our Insurance Team.

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