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# WHAT IF YOUR INSURANCE COMPANY GOES UNDER?

August 8, 2018

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With Florida's largest homeowner's insurance company scoring a D rating in a recent financial analysis, many may be left wondering what happens in the event their insurance company is unable to pay their claims. To protect policyholders during an insurance company's financial collapse, the legislature created the Florida Insurance Guaranty Association ("FIGA"). One purpose of FIGA is to "provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer." Fla. Stat. §631.51(1).

If an insurance company becomes insolvent and is ordered by a court to be liquidated, FIGA steps in to handle the claim of the property and casualty insurance company and issue payment for covered losses. However, as FIGA is a statutorily created entity, the scope of its obligations to Florida's policyholders are specifically outlined and are narrowly tailored to FIGA's purpose.

Notably, the provisions of Florida's attorney fee statute are not applicable to any claim presented to FIGA, except when FIGA denies by affirmative action, other than delay, a covered claim or a portion thereof. Fla. Stat. §631.70. This language deviates significantly from the fee provisions outlined in Fla. Stat. §627.428 which allows for the recovery of attorneys' fees against an insurance company on a prevailing party standard.

It is also important to note that surplus lines insurance companies which primarily includes out of state carriers are not eligible for FIGA coverage. If you have questions regarding whether your insurance company is backed by FIGA, you can visit the Office of Insurance Regulation's website.

Should you have any concerns about your policy or how an insolvency can impact your claim, please do not hesitate to contact Michael J. Higer, Gina Clausen Lozier, Gavin Gaukroger, or Christopher Choquette on our Insurance Team.

## Related Team Member(s)

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