BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

CALL TO ACTION FLORIDA CONSUMERS AND BUSINESSES

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By: Michael J. Higer

Florida's Senate has just passed SB 76--major legislation which, if likewise passed by the House and signed by the Governor, would substantially and negatively affect the rights and remedies of every homeowner and business owner in Florida. Among the changes proposed are:

- Elimination of the entitlement to recover fees in favor an insured and against an insurer which has been the law since the 1970s
- Substantial modification in which both entitlement and the calculation of the amount of attorneys fees are determined in Florida which greatly reduces an insured's ability to recover the legal fees incurred in having to file a lawsuit against an insurance company and greatly reduces the amount of legal fees that an insured can recover
- Substantial modification of homeowners' policies which would greatly reduce the amount of coverage afforded for replacement of roofs damaged as a result of an otherwise covered event
- Modification of the notice requirement for supplemental claims which broadens the scope of the notice requirement to apply to all losses and not just windstorm losses and reducing the amount of time for this notice from three to two years from the date of loss
- Imposition of pre-suit notice requirement which require all insureds to provide with details as to the insured's claim which will unfairly burden the insured, and in many instances will render compliance impossible or extremely difficult, and will substantially delay the claim process
- Imposition of an audit requirement that would impair the sanctity of communications between insureds and their lawyers

Suffice it to say, these changes would greatly limit insureds access to seek redress against their insurance companies when they suffer a loss and their insurer fails to properly and fully compensate them. Under this legislation, an insured's roof could be completely destroyed but the insurance company would only be obligated to pay for a partial replacement. The justification for these wide scale and Draconian changes is the usual cry that insurance companies are suffering economically because of the amount of claims and the adverse results in the claims asserted against them.

Ignoring for now the dubious proposition that insurers are somehow economically suffering, perhaps, the Legislature should instead pause and consider whether the amount of claims and the results of these claims are more a product of insurers failure to fully and properly adjust and compensate their insureds who have suffered a loss. If the Legislature truly believes there are abuses which occurring, it should focus its efforts on measures tailored to those purported abuses instead of broadly impairing the rights and remedies of all insureds in Florida in a manner which will greatly dilute all of our rights.

SB 76 is not the law yet. It still needs to pass in the House which is likewise considering legislation [HB 305] which would substantially diminish the rights of property owners. Because this proposed legislation would adversely affect all of us—homeowners and business owners—now is the time for all of us to stand up, make

our voice count, and reach out to your representatives in Tallahassee and let them know that this legislation would be bad for homeowners and bad for business.

Should you have any questions or concerns about your policy, your claim, or your insurance carrier’s obligations, please do not hesitate to contact Michael J. Higer of Berger Singerman's Insurance Team.

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