

About the Authors



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Mr. Carlson's insurance company assignments and consulting practice include considerable experience with Florida issues such as the use of catastrophe models in ratemaking, rate filing requirements, treatment of sinkhole claim data in ratemaking and reserve settings, expert witness testimony, catastrophe exposure management and issuing loss reserve opinions for Florida-only property insurers, title insurance companies and captive insurers. At Pinnacle, he has been involved in assisting various state government operated funds including workers compensation funds and mine reclamation funds.



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Mr. Godbold's consulting career has focused primarily in providing loss reserve opinions for a variety of insurance companies, self-insured groups, captives, RRG's and governmental insurance programs. He currently issues over 28 loss reserve opinions for a variety of insurance enterprises. He has been heavily involved with various professional liability coverages (Law Enforcement, Lawyers and Medical Malpractice), workers compensation issues, non-standard automobile carriers as well as serving the Florida Homeowners market. In addition to reserve analysis, he has also been involved in funding studies, feasibility studies, retention level analysis and rate and pricing reviews.

On May 17, 2011, Florida Senate Bill 408 was signed into law. This new Florida legislation has changed the operating environment for property insurance claims handling and rate filing submission. Both of these changes will have an impact on the actuarial aspects of companies with significant personal lines property exposure in the "Sunshine State".

Florida Senate Bill 408 will have an impact on future loss development patterns that insurers and their actuaries use in estimating unpaid claims liabilities. The legislation alters the following three areas of the Florida law:

- The first legislative change reduces the time frame after a hurricane that a policyholder is allowed to submit a claim from 5 years to 3 years. While this window is longer than in many other jurisdictions, there will still be considerable uncertainty on the part of property insurers as to the ultimate number of claims from hurricane events even though the window is shortened to 36 months. The reform will have no impact on current, pending, and re-opened claims for events that occurred prior to the effective date of the bill. Regardless, we expect claim count and loss development patterns will be compacted.



- The second major area of emphasis within this multifaceted legislation is the treatment of sinkhole related claims.
 - The definition of "structural damage" is now specifically defined in Section 627.706 (1)(k) of the law. The intent is to eliminate the impact of normal settlement cracks and provide coverage when the structure is:
 1. Unfit for habitation
 2. No longer provides adequate intended structural support
 3. Listing, leaning or buckling out of plumb
 4. Significantly likely to imminently collapse due to movement or instability
 5. Damaged using the stronger Florida Building Code definition of "substantial structural damage"

This change will likely impact the future number of reported and settled sinkhole related claims. It may also have an impact upon the average claim severity as smaller claims are removed from the system.

- The time period allowed for submission of a sinkhole claim is now 2 years after the policyholder knew or reasonably should have known about the damage. This change will shorten the timeframe for Incurred But Not Reported (IBNR) claim development.
- To the extent a policyholder disputes an insurer's claim denial, the new law provides for cost sharing between the two parties for further testing requested by the policyholder. This change will have an impact upon the projected loss adjustment expenses of both current, initially denied, and IBNR sinkhole related claims.
- The new law requires that a contract for stabilization and foundation repair must be entered into within 90 days of confirmation of an insured loss. The insurer will pay for the repairs as they are performed and expenses are incurred. This stabilization and repair effort must be completed within 12 months of the contract signing. This change may impact the paid loss development on these claims as it eliminates the single lump sum payment which may or may not have been used to affect any repairs.
- The law also allows the insurer to limit the sinkhole coverage to the principal building and not all other structures. This change may impact both frequency and severity as the scope of coverage can be limited.

We note that the treatment of sinkhole claims involving catastrophic collapse (where the structure is impacted by a sudden and dramatic drop in the underlying ground) will remain unchanged.

- The third change brought about by this legislation is related to loss settlement allowing the insurer to settle structure claims on Actual Cash Value (ACV) basis first, with the remaining costs reimbursed on a Replacement Cost Value (RCV) basis after repairs are performed.
 - For personal property (contents) claims, the insurer must offer RCV coverage with no adjustment for depreciation or whether the property is actually replaced.
 - The insurer may also offer a RCV on contents coverage option where initial payment is at ACV and RCV is available with receipts submitted to the insurer. This option would include an actuarially reasonable premium credit or discount.

Due to this 2011 law revision, we will continue to recommend to our insurer clients with significant Florida property exposure to review their property loss development data separately for hurricane/catastrophe events, sinkhole events, and all other property claim types.

From a rate filing view point, there were a few changes included in this legislation that will alter the filing submission rules going forward.

- The time allowed for the Office of Insurance Regulation (OIR) to review an expedited net cost of reinsurance filing was decreased from the normal 90 days to only 45 days. The restriction from submitting another rate filing during the next 6 months after the expedited filing implementation was removed.
- The option to make a property rate filing under the Use and File system was postponed until May 1st, 2012.
- Perhaps most importantly to actuaries and company management, who are required to sign a notarized Certificate of True and Accurate Rate Filing form, the revised law now allows for supplemental information or additional information to be submitted to the OIR without rendering the original certification to be false. The new law allows the OIR to consider such information without the need for additional recertification. The ability to supplement or clarify the original submission with information desired by the OIR staff to facilitate their review and analysis should assist the review process from both the OIR and company perspective. The level of "Complete Documentation" is often defined by the reviewer rather than the submitter.

We see this legislation as the next step in the attempt to improve the operating environment in the Florida Property insurance marketplace by addressing the recent catastrophe-like impact from sinkhole related losses. Creating a financially sound, competitive and affordable system for property insurance in the "Sunshine State" is a very daunting but nonetheless, a noble task.



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