



2023 Session Recap

During the 2023 Legislative Session, Florida Surplus Lines Association advocates were on the front lines, working to ensure the surplus lines marketplace can operate as an effective safety valve for distressed risks and as a robust solution for emerging and niche risks. This was accomplished by advocating for regulatory consistency, ensuring the continued freedom of rate and form, and removing consumer impediments to affordable, quality products. This included preventing special interests from chipping away at the industry's ability to serve Florida as a unique insurance solution when needed.



Repealing the surplus lines one-way attorney fee statute, for good!

The one-way attorney fee statute wasn't just an ailment of the admitted market. The surplus lines market had their own one-way attorney fee statute, which was driving significant litigation. The Florida Legislature prevented the application of this statute to the property market in the December special session, and then in the 2023 Regular Session, repealed it for good. One-way fees are now limited only to declaratory judgments in which the insured prevails on a total coverage denial.

Supporting monumental tort reform to address marketplace cost drivers

HB 837, which was signed into law in late March, was a densely packed bill intended to address a number of ills ailing the judicial branch. The bill:

- Aligned Florida with the federal rule on the award of contingency fee multipliers,
- Repealed the one-way attorney's fee statutes for both the admitted and nonadmitted markets, while allowing awards of fees for certain declaratory judgment actions,
- Shortened the negligence statute of limitations from 4 to 2 years,
- Created rules of the road for third party bad faith, and included a safe harbor for timely tender of limits or full damages,
- Instituted transparency in medical damages for personal injury suits,
- Authorized comparative negligence for all parties in a negligent security case and added a presumption against liability for multifamily residential properties that comply with specified security measures, and
- Applied modified comparative negligence to plaintiffs found to be more than 50% at fault for the damages sought.



Preventing regulatory constraints that would have impeded critical nonadmitted market access

SB 7052, entitled Insurer Accountability, also passed during the 2023 session. The bill was intended to address issues such as insurer misuse of funds to third party entities, as well reports that some consumers were being shorted in claims payments due to modifications to adjuster reports. While the aims of the legislation were noble, the first version of the bill included a number of provisions that applied current or amended admitted market statutes to the surplus lines market. FSLA advocated for the removal of such provisions, given that they were not necessary to achieve the goals articulated by the Legislature, and would have the unfortunate effect of constricting capacity for risks that needed it most. We were successful in our advocacy, and the bill passed without impinging nonadmitted access for consumers & businesses.

FSLA advocates are the tip of the spear, providing a voice to our industry when decisions are being made at the state Capitol.

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