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Florida lawmakers are being misled about insurance lawsuits, expert contends

By **TREVOR FRASER**
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FEEDBACK



Insurance expert Birny Birnbaum is contradicting a report from a Florida agency that says 76% of insurance lawsuits in the country come from Florida, a figure Birnbaum calls misleading. (John Panella // Shutterstock)

FEEDBACK A state agency provided the Legislature with misleading data about Florida property insurance lawsuits, according to an insurance expert, adding to the debate as lawmakers consider a bill to limit consumer access to the courts when seeking claims from insurers.

On April 2, Florida Office of Insurance Regulation Commissioner David Altmaier sent a letter to the House Commerce Committee saying that Florida homeowners are responsible for 76% of all property insurance lawsuits in the country. A property insurance lawsuit is typically initiated when someone files a claim that an insurance company refuses to pay.

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The letter was supplemental to a report Altmaier sent to the committee in February to prepare for debate on House Bill 305, which seeks to reduce attorney incentives to file lawsuits as well as other measures the bill's sponsors say are necessary to rein in consumer costs. The insurance industry describes the situation in Florida as a litigation crisis.

But Birny Birnbaum, executive director for the Center for Economic Justice, said Altmaier's letter did not paint a complete picture of the situation. In a report sent to the committee on April 16, Birnbaum argues "any homeowners insurance litigation problem can be tied to a small number of insurers and is not an industry-wide problem

demanding wholesale changes to the civil justice system.”

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Birnbaum served as chief economist for the Texas Department of Insurance. Birnbaum sent his report on behalf of the Florida Consumer Action Network.



In a phone call, Birnbaum explained his objections to Altmaier’s letter.

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“He didn’t present all the data that’s available, and ... he didn’t present legislators with the full picture to say this is what’s going on,” he said.

Specifically, Birnbaum takes issue with the presentation as something happening across the insurance industry in Florida. He points to data from the same set that Altmaier used showing at least 22 insurance companies in the state with no litigation and fewer than a third of insurers with more than 30% of claims becoming lawsuits.

FEEDBACK

“If this were an industry-wide problem, you would expect to see every company experiencing litigation,” Birnbaum said.

Birnbaum also takes issue with the use of data from confidential sources in Altmaier’s report. Altmaier used industry data from the National Association of Insurance Commissioners, an organization of which Altmaier is also president.

“This is the kind of information that should be public because it

would help consumers to identify which companies are better performing,” Birnbaum said. “There’s nothing in this data that warrants confidentiality.”

Insurance companies are not mandated to report information to the NAIC, something Birnbaum said makes the data unreliable. For example, the state-run Texas Windstorm Insurance Association doesn’t report the number of their lawsuits. “In Texas, that means you’re eliminating the majority of the lawsuits,” he said.

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In an email sent Sunday to House Commerce Committee Chair Blaise Ingoglia, R-Spring Hill, Altmaier took issue with Birnbaum’s report. He argues that without access to the confidential data he used, Birnbaum’s arguments amount to conjecture.

Altmaier also pointed out that his original letter included a section on his methodology and that his research found no correlation between insurance company behavior in the state and the high number of lawsuits.

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OIR spokeswoman Alexis Bakofsky said in an email that Birnbaum’s report “misrepresents the data in OIR’s April 2nd analysis, ignores

previously published information, and provides absolutely no foundation for its speculative alternative analysis.”

Bakofsky said her office stands by Altmaier’s analysis.

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“The data shows unequivocally that Florida is experiencing far more litigation than the rest of the nation,” she wrote. “Consumers are paying for this excessive litigation in the form of higher rates, reduced options for coverage, and market uncertainty.”

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Birnbaum isn’t denying that Florida might have a problem with insurance lawsuits.

“I’m not here to say there’s no litigation issue,” he said. “I’m just here to say the [NAIC] data doesn’t say that.”

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