

# NAIFA FLORIDA 2023 LEGISLATIVE AGENDA

NAIFA Florida is tracking hundreds of bills that impact the insurance industry. Following are issues we are actively engaged with. As session progresses, additional issues will arise as well, in the form of amendments.

## 1. **SUPPORT ANNUITY SUITABILITY BEST INTEREST STANDARD**

HB 1185 and SB 1398 is a consumer protection bill sought by Florida's Chief Financial Officer, Jimmy Patronis. The bills cover many topics, but one, is the inclusion of the NAIC model latest act on annuity suitability. NAIFA and the ACLI worked very hard to get this model act adopted by the NAIC in 2020. Of note, the model act eschews the proposed U.S. Department of Labor "fiduciary standard." Instead, the model act, enacted in over half the states so far, requires that agents act in the "best interest" of their customers. The bill places new duties on agents selling annuities and adds significant disclosures and consumer protection to the current law.

## 2. **SUPPORT FLOOD INSURANCE RELIEF FOR HIGH RISE CONDO UNIT OWNERS**

The Legislature enacted landmark legislation in special session in December of 2022 reforming Florida's property insurance market. That legislation required all Citizens Property Insurance Corporation ("Citizens") policyholders to be required to purchase Flood Insurance as a condition of being eligible to purchase homeowners or condominium owners' insurance coverage. Many individuals that would be forced to purchase unit owner flood insurance either don't live in flood zones or live in high rise condominiums. SB 154 amends the mandatory Citizens flood requirement by allowing the consumers in various flood zones and above certain floors in high rises to avoid purchasing duplicate flood coverage contained in the condominium associations master policy.

## 3. **OPPOSE HB 1483 AND SB 1602 UNLICENSED HEALTH INSURANCE**

This legislation allows nonprofit membership associations and agricultural cooperative associations to offer health coverage options to their members. The bill specifies that the coverage is not considered insurance. These entities will not be required to obtain a certificate of authority as a health insurance company, nor will the forms and rates receive review and approval by the Florida Insurance Commissioner. The bill allows, but does not require, these unlicensed insurers to cede to licensed insurers all or part of the liabilities. The bill requires filing of an annual actuarial report with the insurance commissioner, but does not grant

authority for the Commissioner to act on this legislation. The bill contains no solvency requirements or disclosures to consumers, so purchasers may not know that this coverage is unregulated, may be unsound, may not pay their claims, and has no coverage from the Florida Life and Health Insurance Guaranty Association.

**4. Monitor Limited lines License option for Funeral Directors**

Language allowing funeral directors selling pre-need contracts to obtain a limited lines license in lieu of a life insurance agents license is being considered in HB 487 by Representative Salzman and SB 1158 by Senator DiCeglie. This is the Florida CFO legislative package. NAIFA supports existing law which limits the insurance products that may be sold by funeral homes to only those policies of life insurance covering the expense of a prearrangement for funeral services or merchandise. This coverage is capped at \$21,000, and is adjusted annually since 2016 to track the consumer price index. We would oppose the ability of funeral homes to sell life insurance in excess of what's needed to cover a funeral, as consumers are in a vulnerable situation when dealing with the death of a loved one. We will monitor this closely to assure no changes to this limitation occur, and we are neutral on the creation of a limited lines license.

**5. MONITOR CHANGE TO LIFE INSURANCE PRE-LICENSING EDUCATION HOURS**

Currently there are four states, including Florida, which require more than 25 pre-licensing education hours for a life only agents license. Of the remaining 46 states, about half require 20 hours, and the other half maintains a no pre-licensing education hours requirement. Before Congress required states to streamline the intra state regulation of agents, NAIFA maintained that all out of state agents must meet Florida's 40 hour requirement before becoming a non-resident agent. However, since then, it's a relatively simple process for an out of state agent to apply for non-resident status in Florida or any other state. An agent from a state with 0 hours may enter Florida without taking additional pre-licensing education. NAIFA does not oppose efforts by life insurers to lower these pre-licensing education hours from 40 down to 30, and will be monitoring this issue, which may arise as an amendment.

**6. OPPOSE WEAKING OF THE COST REDUCTION EFFORTS OF PBM'S**

HB 1509 by Representative Chaney and SB 1550 by Senator Brodeur reduce the ability of Prescription Benefit Managers to work with insurers to lower costs on drugs and to pass those savings on to policyholders. Changes are broad but include allowing any willing pharmacy to join the network, bans mandatory mail order programs, reduces the ability to negotiate steep discounts and high rebates from

one manufacturer to reduce premiums to consumers and other changes. NAIFA Florida opposes this legislation and supports amending it to keep premium reduction components in the law.

**7. GENETIC TESTING AND NAIC VALUE ADDED BENEFITS FOR AGENTS AND COMPANIES**

NAIFA is closely monitoring HB 1111 by Representative Barnaby and SB 312 by Senator Collins, an act relating to insurance. This bill allows life insurance companies to consider genetic information for underwriting purposes if the genetic information is contained in a consumer's medical record. It also allows agents to offer and give certain noncash gifts, idents and services, conduct raffles and drawings, and provide other incentives in accordance with the NAIC model act.

**8. PAID FAMILY LEAVE INSURANCE**

NAIFA is monitoring HB 721 by Representative Chaney and SB 670 by Senator Yarborough which authorizes a new kind of insurance. The bill authorizes life insurers to transact paid family leave insurance. Inserts a definition and requires such policies to specify details and requirements about covered family leave reasons. Sets the benefit period for the length of family leave benefits available for each covered family leave reason, which may not be less than 2 weeks during a period of 52 consecutive calendar weeks.

**9. MONITOR INSURANCE OMNIBUS BILL**

HB 505 by Representative Berfield and SB 418 by Senator Perry is an insurance omnibus bill dealing with several unrelated issues. One issue revises the mandated deductibles that must be offered for hurricane loss when issuing a personal lines residential property insurance policy. For policies with a dwelling limit of at least \$1 million, the bill no longer requires the offer of the current mandated deductibles of 2 percent, 5 percent, and ten percent of the dwelling limit. Instead, the bill provides that an insurer may offer deductibles of up to:

- A. Ten percent, for a policy covering a risk with dwelling limits of at least \$1 million, but less than \$3 million;
- B. Fifteen percent, for a policy covering a risk with dwelling limits greater than \$3 million.

The bill also revises the requirement that the waiver by a policyholder of windstorm coverage or contents coverage, must be in the policy holder's own handwriting, by also allowing the waiver to be typed.

**10. MONITOR ELIMINATION OF PIP AND REPLACING WITH MANDATORY BI**

HB 429 by Representative Alvarez, and SB 586 by Senator Grall repeals PIP and replaces it with 25/50 limits for mandatory bodily injury. It is unlikely this bill will move this session.

**11. SUPPORT TORT REFORM & ELIMINATION OF ONE-WAY ATTORNEYS FEES ALL LINES**

HB 837 by Fabricio and Gregory and SB 236 by Hutson makes dramatic tort reform changes that should be very pro-consumer from a rating perspective. The bill:

- A. Changes Florida’s comparative negligence system from a “pure” comparative negligence system to a “modified” comparative negligence system, so that a plaintiff who is more at fault for his or her own injuries than the defendant may not recover damages from the defendant.
- B. Provides uniform standards to assist juries in calculating the accurate value of medical damages in personal injury or wrongful death actions.
- C. Modifies Florida’s “bad faith” framework to:
  - Allow an insurer to avoid third-party bad faith liability if the insurer tenders the lesser of the policy limits or the amount demanded by the claimant before a complaint is filed, or within 90 days after service of the complaint.
  - Clarify that negligence alone is not enough to demonstrate bad faith.
  - Require a claimant to act in good faith with respect to furnishing information, making demands, setting deadlines, and attempting to settle the insurance claim.
  - Allow an insurer, when there are multiple claimants in a single action, to limit the insurer’s bad faith liability by paying the total amount of the policy limits at the outset.
  - Provides that a contingency fee multiplier for an attorney fee award is appropriate only in a rare and exceptional circumstance, adopting the federal standard.
  - Repeals Florida’s one-way attorney fee provisions for all lines of insurance.
  - Requires the trier of fact in certain negligent security actions to consider the fault of all persons who contributed to the injury.
  - Reduces the statute of limitations for general negligence cases from 4 years to 2 years.