

## [The other ‘mean season’ begins as insurers tally losses, decide whether premium hikes needed](#)

The Palm Beach Post

In mid-November, more than a month after Hurricane Milton’s Florida landfall rendered her Zephyrhills home uninhabitable, Jessica Fernandez was still wondering how her life could be returned to anything like it was before Mother Nature’s fury descended from the skies.

She filed insurance claims the day after the Cat 3 storm struck, but she had yet to lay eyes on a representative from either her property insurance or flood insurance company in person. Worried, Fernandez, said she had been calling at least three times a week.

“It’s frustrating,” said the 43-year-old single mother of Yaneyshka, 18, Anseline, 15, and Antonio, 10, who works the overnight shift as a Spirit Airlines agent. “When you’re paying for insurance, you think you’re going to get the same service back.”

Hurricane season ended Nov. 30, but when it did, another “mean season” began.

For those who were victimized by the three storms that made landfall in the state, the tedious, maddening and sometimes desperate effort to repair and rebuild homes and lives continues. Those who were spared will soon learn if they will suffer financially just the same, for now begins the work of tallying up damages and assessing whether insurance premiums will have to be raised.

The mean season, part two

Long after watches and the warnings from the National Hurricane Center cease, the financial storm still looms for Florida residents. It promises to stretch beyond the most storm-impacted regions and reach far more than the multitudes from Naples to the Panhandle who experienced the wrath of hurricanes Debby,

Helene and Milton directly.

Predictions that the season would set records for hurricane activity didn't come to pass entirely. But there may be more fallout for insurance companies, state leaders and even insurance customers throughout the state who escaped this year's season without being anywhere near the National Hurricane Center's three cones of uncertainty that cast their shadows across the Florida peninsula.

It's the first season of widespread destruction since the state Legislature passed laws that significantly affect insurance policyholders' ability to challenge their insurance company's assessment of the damage.

Within the next nine to 12 months, it should become clear if the 2024 season's storms will hit Florida's insurance policyholders — already paying the highest average insurance premiums in the country — with even higher premiums, according to industry observers. An important barometer is whether the total damage claims spook the financial markets that insurance companies turn to for reinsurance, their own back-up safety nets, so they themselves can get fortified to handle the risk that potential catastrophic losses present.

Going into this year, the capital markets that insure Florida's insurance companies against catastrophic loss were not charging as much for having a rainy day fund available as they were when those costs propelled double-digit increases in annual premiums across the state to shore up these backstops. An important determination is how deep total claim payments this year cut into, or not, the insurance companies' reserves and need for greater amounts of reinsurance.

More immediately, the biggest hit is on individual property owners. Many of those who experienced the one-two punch of hurricanes Helene on Sept. 26 and then Milton on Oct. 9, like Fernandez, still await the verdict on what their insurance company will give them to fix the damage after hurricane deductibles are met. And whether the damage they suffered is even insured.

Fernandez's damaged residence was just one of the many casualties of the 2024 hurricane season that seemed to have battered properties in every corner of the state. After skies clear, the attention for those unlucky enough to have been in the storm's path switches from weathermen to those handling their claims.

A starting point for Fernandez and others is a visit from a property adjuster sent by the insurance company, which represents a crucial step on the way back to normal life. Adjusters are supposed to assess the damage and lay the groundwork for how much money the insurance will pay to help Fernandez reclaim her five-room concrete block house that was flooded in ankle-deep water during the storm. Fernandez and her children have been staying at various relatives' homes and spent a few nights in a hotel that the Federal Emergency Management Agency paid for, but the noise of the place had her retreating to relatives' homes.

"Everything I had was almost new," she said, recalling her first day as a homeowner just two years ago. "It all got wet."

Early estimates suggest 2024 storms unlikely to devastate insurance industry

Overall, industry representatives say that insurance companies are well-positioned to pay policyholder claims for damage inflicted by this season's imports from off the coast of Africa. And they don't expect the meltdown that occurred in 2021 and 2022 when seven insurance companies serving the state's property owners went bankrupt.

Officials at Citizens' Property Insurance Corp., the Florida's insurer of last resort and its largest, have announced they have the reserves to handle the payouts for damage that the customers they cover sustained. The state-backed nonprofit's executives say they expect to meet claims.

That's good news for all Floridians because Citizens has the authority to levy a premium surcharge on every insurance policyholder in the state when its finances are imperiled. That is what happened after the hurricanes in 2004 and 2005 when Citizens was \$1.7 billion short after paying out claims for the conga line of storms that started with Hurricane Charley in 2004 and ended with Hurricane Wilma in 2005.

In 2007, Citizens began collecting a 1.4% emergency assessment on all premiums paid from all Florida property insurance policyholders. The surcharge was reduced to 1% in 2011 and ended in 2015.

But that's not what is expected to happen this year.

"These are very moderate losses for property insurance," Mark Friedlander, director of corporate

communications for the insurance industry-backed Insurance Information Institute, said of the impact of the three hurricanes, Debby, Helene and Milton, that made landfall in Florida this season.

His outlook that the state's insurance companies are well-positioned to handle the toll of these storms is rooted in three factors.

One is the changing legal landscape for insurers getting sued in disputes with policyholders; Lawsuits have dropped dramatically since the state Legislature passed tort reforms. Secondly, catastrophic winds did not hit high-value real estate centers as Hurricane Ian did in 2022. And, finally, losses will not be so large because of how this season's storms primarily caused flooding damage and not wind-driven damage — and thus not covered by typical property insurance policies.

"It's a pattern we're seeing more and more," Friedlander said. "A significant amount of the damage is flood."

Only about 1-in-5 Florida property owners are insured against flood damage.

The wait to be made whole

The estimation that Florida's property insurance market is healing — at least for the immediate future — is cold comfort for those who were not lucky enough to avoid nature's wrath. And it's hard not to miss how two of the three factors that Friedlander credits for the insurance industry's relative health after a near meltdown can be attributed to the random chance of nature's whims.

Last month, Big Bend resident Linda Wicker sent a complaint to the governor's office about what she insists are insurance companies' unpaid claims from Hurricane Idalia flooding damage to her riverside Steinhatchee restaurant, Roy's Restaurant, in 2023. And now she's waiting to see what her insurer will pay from the restaurant's total annihilation that Hurricane Helene inflicted on her business in September.

"They told me, 'We're not paying it.' And with no explanation," she recounted of her last go-round trying to be made whole after Idalia. "My reply was, 'Why aren't you paying it? I'll get you receipts. What is it that you need in order to pay it?' And I've not gotten any reply.

"They just don't respond," she continued. "You leave messages. You try to get information. No response."

Consumer advocates lament that Wicker and others are left little recourse other than to write complaint letters precisely because of the reforms the Florida Legislature passed and Gov. Ron DeSantis signed into law.

The tort reforms that took effect in 2022 and 2023 made a key legal option markedly more difficult — taking one’s insurer to court, if a dispute about the cost of fixing the damage arises, lawyers and policymakers agree.

Those reforms, the governor, lawmakers and insurance companies argued at the time, were passed to tame the waste, fraud and abuse which lawmakers agreed had Florida insurance market teetering on the brink of collapse that spurred two special legislative sessions in 2022.

Now, that Florida law bars attorney fees from being included in litigated claim awards and, many agree, the number of lawsuits has dropped dramatically, since Wicker and other property owners will have trouble finding lawyers to take their cases.

Annually, the number of homeowner lawsuits filed against insurers were routinely between 80,000 to 100,000, the Insurance Information Institute’s Friedlander said. Compare that to 2024 — so far about 26,000 lawsuits have been filed, counting to Oct. 31, according to Friedlander.

That’s still a high number compared to insurance litigation in other states, but a big improvement in the factor that industry advocates claim is one of the biggest reasons that Florida homeowners pay significantly more in premiums than insurance policyholders in other states.

“Companies are all showing vast improvement in their financial position because of that” decrease in litigation, Friedlander said. “This is why most companies in Florida filed either for a zero rate change, meaning an average rate change of zero ... or even a decrease.”

Covered or not?

Whether lawsuits continue to decrease — and premium rates hold steady or even decrease — in the wake of this year’s storms is being closely watched. Sure to emerge as a chief argument between insured and insurers — and perhaps spawn lawsuits and their resulting cost — is whether the flooding damage is the result of an opening that hurricane winds caused or if the flooding came from storm surge or

inundating rainfall.

That is critical as flood damage is not covered by windstorm coverage, and must be addressed by national flood insurance — or the property owner. In Florida, about 20% of properties have flood insurance.

In the past, property owners caught in the finger-pointing over whether the flood damage resulted from wind-damage to the structure or rising waters could file a lawsuit for resolution. Now, though, attorneys say they are seeing the effects of new laws that make it more difficult for customers to challenge the insurance company's estimation of what it will take to fix it in the tally of claims on the Office of Insurance Regulation's website.

Catastrophe claims show that just 28% of Hurricane Ian's claims in 2022 were closed without a payment. That's a figure markedly different from storms that have struck since tort reform took effect. More than half of this year's Hurricane Debby claims were closed without payment and 45% of Helene's fell into the same category.

Harold Levy, founder and managing partner of HL Law Group in Fort Lauderdale, said he is not surprised that companies are optimistic that they have better prospects than they did three years ago for getting through storm season more solvent and profitable, now that the laws favor keeping them out of court. And he doesn't think it's a coincidence that claims closed without payment have begun increasing since the state passed laws that prohibit lawyers from getting their fees added to their clients' insurance settlement.

"Carriers know well that without statutory fees, that certain claims are going to be very difficult for a lawyer to be able to justify financially," Levy said. "So, if someone has a legitimate \$15,000 claim, and I can't get fees on that ... the insurance companies are banking on that."

Typically, the lawsuits show up three to six months after a storm, Levy said.

Putting Florida more in line with national practices

Friedlander, representing the Insurance Information Institute, doesn't see the number of claims getting closed without payment as a result of the tort reform, however. The reforms bring the state more in line

with other states' legal rules, he said.

“Two primary reasons for hurricane claim denials: A flood claim filed with your property insurer or the loss not meeting the windstorm deductible of the (example: \$20,000 storm loss with a \$25,000 windstorm deductible),” Friedlander said in an email. And “FEMA requires a coverage denial letter from your property insurer as part of the emergency grant application process. This has led to many homeowners knowingly submitting a flood claim with their home insurer.”

The tort reforms also added some accountability for insurers, supporters of the changes point out. If Fernandez of Zephyrhills, for example, doesn't get an offer for settling her claim within 60 days of filing it, she can file a civil remedy notice about it; shortened from 90 days. That's a tool that's useful only if she sues, though.

Also, under the new laws, her insurer must provide a detailed explanation in writing about the results of her claim. If she has a dispute about the amount her insurance company is offering, she can submit it to the state Department of Financial Services. Other remedies would involve hiring an adjuster or an appraiser.

A definite win for the companies, but what about policyholders?

Jeff Brandes, a former Republican state senator now the founder and president of the think tank, Florida Policy Project, said all signs show the reforms are working. He's predicting that policyholders will see a 1% to 5% reduction in their premiums and more nationally backed insurers interested in doing business in Florida, despite the latest slew of storms.

“What we're seeing is the huge reduction in litigation is having a huge impact ... we're probably another year away from outside capital waking up and seeing that the market of Florida has turned,” Brandes said, citing a report from the 13th-biggest property insurer in Florida, Heritage Insurance, reporting net income of \$8.2 million in 2024's third quarter, compared to the net loss of \$7.4 million in the same quarter in 2023. The gain was recorded despite the company's \$48 million in hurricane losses, according to a company statement.

Still, Amy Bach, executive director of United Policyholders, an advocacy nonprofit for the insured, said she's concerned that Florida's insurance is getting thinner and thinner while there are too few avenues

for consumers to hold insurance companies to account, when there is a loss, even though Floridians pay more than homeowners in any other state.

“We feel like we hear too many stories of people whose claims were closed without payment because either the policy had been rewritten in such a way that they didn’t meet the very high deductibles or the insurer found a way not to pay instead of what we expect them to do, which is find a way to pay,” Bach said.

#### More policy fixes?

When the Florida Legislature convenes in March, the impact of this past storms season is scheduled to hit policyholders’ premiums.

In anticipation of the upcoming session — between the landfalls of Helene and Milton, in early October — Chief Financial Officer Jimmy Patronis announced he will ask the Legislature to dedicate more funding to My Safe Florida Home, which gives residents up to \$10,000 to better hurricane-proof their homes.

Meanwhile, Republican Sen. Blaise Ingoglia of Spring Hill, who represents the part of the state hit by both Helene and Milton, would like to go even further than My Safe Florida Home and encourage people to build their tall Florida home. Incentivizing the construction of buildings higher than any storm surge would end the cycle of rebuilding after a hurricane only to have the rebuilt structures annihilated again, he says.

He envisions legislation that would encourage counties to freeze property taxes for 15 to 20 years, for those who go higher.

“If you incentivize people to build upwards, out of harm’s way and make it more resilient, everyone will save money,” Ingoglia said, citing cheaper premiums for homeowners whose higher buildings represent less risk to insure.

#### Taking disasters out of the private sector?

Still, Democratic Rep. Kelly Skidmore of Boca Raton has asked the Republican Gov. Ron DeSantis to investigate reports that Hurricane Ian claims were systemically downgraded from what the initial property adjuster reported. She would like to see an idea that died in last year’s legislative session



revived. A bipartisan bill proposed putting catastrophic risk into a nonprofit, like Citizens Property Insurance Corp., that would cover all Floridians — and take out the profit motive.

“There’s still a lot of controversy about what’s happening to the homeowner,” Skidmore said.

Right now, Zephyrhills homeowner Fernandez’s main comfort, besides her children, her mother and the four-legged menagerie that includes a goat, two dogs and a cat, is that she’s met parents of her kids’ friends who have stories similar to hers. But another encounter with someone who lives south of her chilled her to the core.

“She told me, ‘We’re still dealing with Ian,’ and I’m saying ‘Ian was when? Back in 2022,’” Fernandez recounted. “I was like, ‘Oh, Lord. It’s going to be two years?’ I’m going to be wandering around, house-surfing for two years?”

On the 36th day after the storm, an adjuster from the flood insurance company came and took some pictures. She said she’ll be waiting for the tally of what she can get. A contractor estimated that fixing the damage may cost just \$50,000 less than she what bought it for two years ago.

“Depending on what they find when they take the walls out,” she said.