

## Policy May Not Restrict Right To Assign Post-Loss Benefits, Says Florida Appellate Court

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A Florida appellate court upheld an order issued by the Office of Insurance Regulation which held that an insurer may not amend its policy language to restrict the ability of policyholders to assign post-loss benefits. *Security First Ins. Co. v. Florida Office of Ins. Reg.*, 2017 WL 5907449 (Fla. Dist. Ct. App. Dec. 1, 2017).

Security First, a property and casualty insurer, submitted a proposed policy endorsement to Florida's Office of Insurance Regulation, as required by state statutory law. The proposed endorsement "restricted the ability of policyholders to assign post-loss benefits absent the consent of all insureds, all additional insureds, and all mortgagees named in their policies." The Office of Insurance Regulation disapproved of the endorsement, finding that it violated Florida statutory law by improperly restricting the assignment of post-loss claims. *See* Fla. Stat. 627.411. Security First appealed the ruling, and a Hearing Officer upheld the decision. A Florida appellate court affirmed.

Security First argued that Florida's prohibition against the enforcement of policy provisions that require consent for post-loss assignments applies only to provisions that require the insurer's consent, whereas the proposed endorsement requires the consent of other parties. Additionally, Security First asserted that the endorsement furthers several public policy interests, including concerns "about the significant increase in post-loss assignment of benefits from homeowners to third-parties" and potential bad faith claims against insurers in cases in which an assignment occurs without the consent of all insureds, thereby potentially impairing the rights of some insureds. The appellate court rejected these assertions, emphasizing that "the right to recover under an insurance policy is freely assignable after loss."

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