



[Ask Tutwiler](#)

*"Get any sinkhole issues resolved or investigated before next year."*

## Ask Tutwiler

### Insurance Claims Questions

*Each issue we ask our readers to submit burning questions they have so we can answer them to the benefit of all. Please keep in mind that we are not attorneys and will not provide legal advice.*

**N**ew Florida Legislation in the form of Senate Bill 408 has changed the rules for property insurance policyholders in several areas. A couple of changes specifically impact Citizens Insurance policyholders' sinkhole coverage and their ability to engage a public adjuster to assist them with any claim. The new law states the following:

*"For any claim filed under any policy of the corporation (Citizens Insurance), a public adjuster may not charge, agree to, or accept any compensation, payment, commission, fee, or other thing of value greater than 10 percent of the additional amount actually paid over the amount that was originally offered by the corporation for any one claim."*

*"CPIC (Citizens Insurance) must provide that new or renewal policies issued by the corporation on or after January 1, 2012, which cover sinkhole loss do not include coverage for any loss to appurtenant structures, driveways, sidewalks, decks, or patios that are directly or indirectly caused by sinkhole activity. The corporation shall exclude such coverage using a notice of coverage change, which may be included with the policy renewal, and not by issuance of a notice of*

*nonrenewal of the excluded coverage upon renewal of the current policy.”*

***How does the new law impact my ability to hire a public adjuster if I am a Citizens policyholder?***

**Answer:** The new law which we understand was the result of intense lobbying by the insurance agents lobbyists and perhaps a result of the [OPPAGA Report](#) that concluded that policyholders who hire public adjusters get higher claims payouts ([see Exhibit 6, Pg. 7](#)), says that a public adjuster can only charge for professional services on any amount above what is initially offered by the Citizens claims department. The fee is then limited to 10% of the money recovered above the original offer. Therefore, contracting for “public adjuster services” early to help manage a claim might be problematic since it will be difficult to set a fair fee structure and the initial offer could come week or months into the claim.

***Should I still ask for advice and assistance from a public adjuster prior to an offer from Citizens?***

**Answer:** Yes, give us a call and we will continue to be there for you, just as we have been for all our clients over the past 28 years. One thing we can do, is review the initial offer and based on our work product give you an honest opinion of the need to retain our firm’s professional public adjuster services.

***I have been advised by a Citizens claims rep that I will be receiving the Actual Cash Value (ACV) of my loss. What does that mean?***

**Answer:** If you have a replacement cost policy, the new law means you will be paid the depreciated or actual cash value of your loss. Also known as “hold back” this concept requires you to complete the repairs as outlined in the insurance adjuster’s scope of loss and requires that you show you have incurred the expense before you are paid the full replacement cost of your loss. In many cases this will mean signing a repair contractor’s written contract stating that you

agree to pay for the repairs. ACV may or may not be defined in your policy however most insurance companies interpret this as Replacement Cost - Depreciation = ACV. So in most cases, it's the depreciated value of your loss. Typically, the insurance industry may apply a percentage depreciation amount that is at best subjective. Given the difference in usage, condition and a whole variety of other issues that differ from one property owner to the next you may argue a lesser depreciation than what the carrier's adjuster says is appropriate. In addition the "broad evidence rule" may apply which would allow you to argue that many things need to be taken into consideration in figuring a fair depreciation holdback amount.

***Homes in my neighborhood have been plagued by sinkholes. What if I see something serious start to develop?***

**Answer:** Call us and we will come out and do a free inspection. Get any sinkhole issues resolved or investigated before next year.

Got a question for us to publish? "Ask Tutwiler" at: [tutwiler@publicadjuster.com](mailto:tutwiler@publicadjuster.com)