

1 A bill to be entitled

2 An act relating to insurance; amending s. 627.351,  
3 F.S.; requiring the Citizens Property Insurance  
4 Corporation to create a pilot program to authorize the  
5 corporation to indemnify certain policyholders for the  
6 cost of mitigation of partial losses; providing  
7 program requirements; amending s. 627.422, F.S.;  
8 authorizing a property insurance policy to prohibit  
9 the post-loss assignment of rights, benefits, causes  
10 of action, or other contractual rights under the  
11 policy; providing exceptions; creating s. 627.70115,  
12 F.S.; providing that homeowners' insurance for roof  
13 coverings for certain homes and mobile or manufactured  
14 homes may be adjusted on the basis of actual cash  
15 value; providing requirements; amending s. 627.706,  
16 F.S.; providing for renewal of property insurance  
17 policies; prohibits a contractor providing residential  
18 roofing goods and services from advertising or  
19 promising to pay or rebate all or part of any  
20 applicable insurance deductible; providing  
21 requirements relating to roofing goods and services  
22 contracts; providing notice requirements; providing  
23 requirements for the cancelation of the contract;  
24 providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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 28 Section 1. Paragraph (ii) is added to subsection (6) of  
 29 section 627.351, Florida Statutes, to read:  
 30 627.351 Insurance risk apportionment plans.—  
 31 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—  
 32 (ii) The corporation shall establish a pilot program to  
 33 enable a personal residential policyholder of the corporation to  
 34 elect coverage that authorizes the corporation, at its own  
 35 discretion, to indemnify the policyholder for the cost of  
 36 mitigation of partial losses, including repairs, or directly  
 37 arrange for mitigation or repair of the loss. A policyholder  
 38 that elects coverage under the pilot program must be provided an  
 39 actuarially reasonable premium credit or discount that reflects  
 40 the expected cost savings associated with the coverage. The  
 41 pilot program may not be used for partial losses caused by the  
 42 peril of windstorm during a hurricane or for partial sinkhole  
 43 losses. The corporation may enter into contracts with entities  
 44 to implement and administer loss mitigation activities  
 45 authorized under this paragraph. The pilot program shall be  
 46 established in the county where the corporation experiences the  
 47 highest loss ratios for perils other than windstorms or  
 48 sinkholes.

49 Section 2. Section 627.422, Florida Statutes, is amended  
 50 to read:

51 627.422 Assignment of policies; prohibition on the post-  
 52 loss assignment of rights, benefits, causes of action, or other

53 contractual rights.—A policy may be assignable, or not  
54 assignable, as provided by its terms.

55 (1) Subject to its terms relating to assignability, any  
56 life or health insurance policy under the terms of which the  
57 beneficiary may be changed upon the sole request of the  
58 policyowner may be assigned either by pledge or transfer of  
59 title, by an assignment executed by the policyowner alone and  
60 delivered to the insurer, whether or not the pledgee or assignee  
61 is the insurer. Any such assignment shall entitle the insurer to  
62 deal with the assignee as the owner or pledgee of the policy in  
63 accordance with the terms of the assignment, until the insurer  
64 has received at its home office written notice of termination of  
65 the assignment or pledge or written notice by or on behalf of  
66 some other person claiming some interest in the policy in  
67 conflict with the assignment.

68 (2) A property insurance policy may prohibit the post-loss  
69 assignment of rights, benefits, causes of action, or other  
70 contractual rights under the policy, except:

71 (a) An insured may assign the right for payment to a  
72 person or entity providing services or materials to mitigate or  
73 repair damage directly arising from a covered loss. The  
74 assignment is limited solely to the right to be named as co-  
75 payee for the benefit of payment for services rendered and  
76 materials provided.

77 (b) For the limited purpose of compensating a public  
78 adjuster for services authorized by s. 626.854(11).

79 (c) For the payment of attorney fees for representation of  
 80 the insured.

81 (3) Except as provided in subsection (2), any post-loss  
 82 assignment of rights, benefits, causes of action, or other  
 83 contractual rights under a property insurance policy that  
 84 prohibits such assignment renders the assignment void.

85 Section 3. Section 627.70115, Florida Statutes, is created  
 86 to read:

87 627.70115 Homeowners' insurance; actual cash value for  
 88 losses to roof covering.—

89 (1) For homeowners' insurance, notwithstanding s.  
 90 627.7011, insurers other than the Citizens Property Insurance  
 91 Corporation may issue a policy or endorsement, or renew a  
 92 policy, providing that any loss relating to the property's roof  
 93 covering that is repaired or replaced will be adjusted on the  
 94 basis of actual cash value if the roof covering:

95 (a) Is constructed out of material other than tile, slate,  
 96 clay, concrete, or metal.

97 (b) Is more than 20 but less than 25 years old.

98 (c) Has not been replaced within the previous 25 years.

99 (d) Has less than 3 years of remaining useful life as  
 100 certified by a qualified inspector.

101 (2) For homeowners' insurance, notwithstanding s.  
 102 627.7011, insurers other than the Citizens Property Insurance  
 103 Corporation may issue a policy or endorsement, or renew a  
 104 policy, providing that any loss relating to the property's roof

105 covering that is repaired or replaced will be adjusted on the  
 106 basis of actual cash value if the roof covering:

107 (a) Is constructed out of tile, slate, clay, concrete or  
 108 metal.

109 (b) Is more than 45 but less than 50 years old.

110 (c) Has not been replaced within the previous 50 year.

111 (d) Has less than 3 years of remaining useful life as  
 112 certified by a qualified inspector.

113 (3) For homeowner's insurance, notwithstanding s.  
 114 627.7011, insurers other than the Citizens Property Insurance  
 115 Corporation may issue a policy or endorsement or renew a policy  
 116 providing that any loss relating to a mobile or manufactured  
 117 home's roof covering that is repaired or replaced will be  
 118 adjusted on the basis of actual cash value if the roof covering:

119 (a) Is more than 20 but less than 25 years old.

120 (b) Has not been replaced within the previous 25 years.

121 (c) Has less than 3 years of remaining useful life as  
 122 certified by a qualified inspector.

123 (4) An insurer may adjust losses relating to roof covering  
 124 on the basis of actual cash value as specified in subsections  
 125 (1), (2) or (3) only if the following conditions are met:

126 (a) The insurer nonrenews a policy that require losses  
 127 relating to roof covering that is repaired or replaced to be  
 128 adjusted at replacement cost and offers a new policy that  
 129 requires these losses to be adjusted on the basis of actual cash  
 130 value. The insurer cannot renew a property insurance policy

131 pursuant to s. 627.43141 to change the adjustment for losses  
132 related to roof covering from a replacement cost basis to an  
133 actual cash value basis.

134 (b) The policy including payment for losses related to  
135 roof covering at actual cash value must, on its face, include in  
136 boldfaced type no smaller than 18 points the following  
137 statement:

138  
139 This policy pays actual cash value for any loss relating to  
140 the roof covering. Payment of actual cash value for losses  
141 relating to roof covering will not fully pay for the repair or  
142 replacement of your roof if there is major roof damage. There  
143 will be a significant difference between the insurance proceeds  
144 paid to you by your insurer for the roof damage and the cost you  
145 will incur to repair or replace your roof. Therefore, you may  
146 pay significant out of pocket costs for roof repair or  
147 replacement. Additionally, the insurer may require you, at your  
148 expense, to fully repair or replace your roof in order for the  
149 insurer to continue to provide property insurance on this  
150 property.

151  
152 (c) The agent of record on the policy must obtain an  
153 acknowledgment signed by the policyholder that the policyholder  
154 has read and understands the disclosure required in paragraph  
155 (b). This acknowledgment must be obtained at policy issuance and  
156 at each renewal.

157 (d) An insurer issuing a policy requiring the insurer to  
 158 adjust losses relating to roof covering on an actual cash basis  
 159 must provide the policyholder an actuarially reasonable premium  
 160 credit or discount that reflects the expected cost savings  
 161 associated with this policy.

162 (e) If the structure insured by a property insurance  
 163 policy that requires insurers to adjust losses to roof covering  
 164 on the basis of actual cash value is subject to a mortgage or  
 165 lien, the policyholder must provide the insurer with a written  
 166 statement from the mortgageholder or lienholder indicating that  
 167 the mortgageholder or lienholder approves the policyholder  
 168 electing a property insurance policy that adjusts losses to the  
 169 roof covering on an actual cash basis.

170 (5) For purposes of this section, a person is a qualified  
 171 inspector if the person is:

172 (a) A general, residential, building, or roofing  
 173 contractor licensed under chapter 489;

174 (b) A building inspector licensed under chapter 468;

175 (c) An architect licensed under chapter 481; or

176 (d) A building code enforcement official licensed under  
 177 chapter 468.

178 Section 4. Subsection (4) of section 627.706, Florida  
 179 Statutes, is amended to read:

180 627.706 Sinkhole insurance; catastrophic ground cover  
 181 collapse; definitions.-

182 (4) An insurer offering sinkhole coverage to policyholders

183 before or after the adoption of s. 30, chapter 2007-1, Laws of  
 184 Florida, may renew pursuant to s. 627.43141 or nonrenew the  
 185 policies of policyholders maintaining sinkhole coverage at the  
 186 option of the insurer, and provide an offer of coverage or  
 187 renewal that includes catastrophic ground cover collapse and  
 188 excludes sinkhole coverage. Insurers acting in accordance with  
 189 this subsection are subject to the following requirements:

190 (a) Policyholders must be notified that the renewal or a  
 191 nonrenewal is for purposes of removing sinkhole coverage, and  
 192 that the policyholder is being offered a policy that provides  
 193 coverage for catastrophic ground cover collapse.

194 (b) Policyholders must be provided an actuarially  
 195 reasonable premium credit or discount for the removal of  
 196 sinkhole coverage and provision of only catastrophic ground  
 197 cover collapse.

198 (c) Subject to the provisions of this subsection and the  
 199 insurer's approved underwriting or insurability guidelines, the  
 200 insurer shall provide each policyholder with the opportunity to  
 201 purchase an endorsement to his or her policy providing sinkhole  
 202 coverage and may require an inspection of the property before  
 203 issuance of a sinkhole coverage endorsement.

204 (d) Section 624.4305 does not apply to nonrenewal notices  
 205 issued pursuant to this subsection.

206 Section 5. (1) (a) A contractor providing residential  
 207 roofing goods and services may not advertise or promise to pay  
 208 or rebate all or part of any applicable insurance deductible. If



209 a contractor violates this subsection, the contract between the  
210 contractor and the person or entity is null and void.

211 (b) A promise to rebate any portion of an insurance  
212 deductible includes granting any allowance or offering any  
213 discount against the fees to be charged or paying an insured or  
214 a person directly or indirectly associated with the residential  
215 real estate any form of compensation except for an item of  
216 nominal value.

217 (2) An insured person who has entered into a written  
218 contract with a contractor to provide roofing goods and services  
219 to be paid by the insured person from the proceeds of a property  
220 or casualty insurance policy has the right to cancel the  
221 contract within three business days after the insured person has  
222 received notice in writing from the insurer that the claim has  
223 been denied, in whole or in part. Cancellation is evidenced by  
224 the insured person giving written notice of cancellation to the  
225 contractor at the address stated in the contract. Notice of  
226 cancellation, if given by mail, is effective upon deposit in a  
227 mailbox, properly addressed to the contractor and postage  
228 prepaid. Notice of cancellation need not take a particular form  
229 and is sufficient if it indicates, by any form of written  
230 expression, the intention of the insured not to be bound by the  
231 contract. Before entering into a contract, the contractor must:

232 (a) Provide the insured with a statement in boldface type  
233 no smaller than 10 points, in substantially the following form:  
234

235 You may cancel this contract at any time within three  
236 business days after you have been notified that your insurer has  
237 in whole or part, denied our claim to pay for the goods and  
238 services to be provided under this contract. See attached notice  
239 of cancellation form for an explanation of this right.

241 (b) Furnish each insured a fully completed form in  
242 duplicate, captioned, "NOTICE OF CANCELLATION," which shall be  
243 attached to the contract and easily detachable, and which shall  
244 contain in boldface type, no smaller than 10 points, the  
245 following:

247 NOTICE OF CANCELLATION

248  
249 If your insurer, in whole or in part, denies your claim to pay  
250 for goods and services to be provided under this contract, you  
251 may cancel the contract by mailing or delivering a signed and  
252 dated copy of this cancellation notice or any other written  
253 notice to ... (name of contractor) ... at ... (address of  
254 contractor's place of business) ... at any time within three  
255 business days after you have been notified that your claim has  
256 been denied. If you cancel, any payments made by you under the  
257 contract, except payments made for emergency services, will be  
258 returned within ten business days following receipt by the  
259 contractor of your cancellation notice.

260

261 I HEREBY CANCEL THIS TRANSACTION.

262

263 ...(date)...

264

265 ...(Insured's signature)...

266

267 (c) Within 10 days after a contract has been canceled, the  
 268 contractor must refund the insured any payments made by the  
 269 insured and any note or other evidence of indebtedness. However,  
 270 if the contractor has performed any emergency services, the  
 271 contractor is entitled to reasonable compensation for such  
 272 services if the insured has received a detailed description and  
 273 itemization of charges for those services.

274 Section 6. This act shall take effect July 1, 2014.