

By Senator Hukill

8-00473C-16

2016596__

1 A bill to be entitled
2 An act relating to assignment or transfer of property
3 insurance rights; creating s. 627.70133, F.S.;
4 providing requirements under a property insurance
5 policy for the post-loss assignment or transfer of
6 rights, benefits, or policy provisions not related to
7 liability coverage; providing requirements for an
8 agreement to assign or transfer such rights, benefits,
9 or policy provisions; providing prohibitions and
10 conditions that void such an agreement; providing
11 applicability; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 627.70133, Florida Statutes, is created
16 to read:

17 627.70133 Assignment of benefits or transfer of rights.—As
18 to property insurance policies, this section governs the post-
19 loss assignment or transfer of rights, benefits, or policy
20 provisions unrelated to liability coverage to a person or entity
21 other than the named insured. This section does not affect the
22 post-loss assignment or transfer of rights, benefits, or other
23 policy provisions related to liability coverage in the property
24 insurance policy.

25 (1) An agreement entered into under this section to assign
26 or transfer rights, benefits, or policy provisions is not valid
27 unless:

28 (a) It authorizes a person or entity to be named as a payee
29 or copayee for the benefit of payment as provided in the policy

8-00473C-16

2016596__

30 for services rendered and materials provided to mitigate or
31 repair covered damage only;

32 (b) It is limited to \$2,500 per occurrence for work
33 performed to mitigate or repair covered damage;

34 (c) It is provided to the insured's property insurer within
35 3 business days after execution;

36 (d) It contains an estimate for proposed services and
37 materials to be provided;

38 (e) With the exception of reimbursement for work already
39 performed to mitigate or repair covered damage, it allows the
40 insured to cancel the agreement, in writing, without penalty or
41 obligation within 3 business days after the date the agreement
42 is executed or within 3 business days after the insurer has been
43 provided with the agreement, whichever is later. However, if the
44 agreement is executed to perform work resulting from an event
45 for which the Governor has declared a state of emergency and is
46 within 1 year after such declaration, the insured has 5 business
47 days after the date the agreement is executed to cancel the
48 agreement without penalty; and

49 (f) It contains the following notice in 14-point type:
50 WARNING: YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE
51 UNDER YOUR INSURANCE POLICY TO A THIRD PARTY. PLEASE READ AND
52 UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT
53 TO CANCEL THIS AGREEMENT WITHOUT PENALTY WITHIN 3 BUSINESS DAYS
54 AFTER THE DATE THIS AGREEMENT IS EXECUTED OR WITHIN 3 BUSINESS
55 DAYS AFTER YOUR PROPERTY INSURANCE COMPANY HAS RECEIVED A COPY
56 OF THIS AGREEMENT, WHICHEVER IS LATER. IF WORK IS BEING
57 PERFORMED AS A RESULT OF DAMAGES CAUSED BY AN EVENT FOR WHICH
58 THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY AND IS WITHIN 1

8-00473C-16

2016596__

59 YEAR AFTER SUCH DECLARATION, YOU HAVE 5 DAYS AFTER THE DATE OF
60 EXECUTION TO CANCEL. THIS AGREEMENT DOES NOT CHANGE YOUR DUTIES
61 UNDER YOUR PROPERTY INSURANCE POLICY, SUCH AS PROMPTLY NOTIFYING
62 YOUR INSURANCE COMPANY OF A LOSS AND MITIGATING YOUR PROPERTY
63 FROM FURTHER DAMAGE.

64 (2) An agreement is void if:

65 (a) It imposes an agreement cancellation fee, a check
66 processing fee, or a mortgage processing fee or adds an amount
67 for overhead and profit to the amount for mitigation and repair
68 of covered property;

69 (b) A final invoice issued under the agreement exceeds the
70 estimated cost for work performed and the increase in cost was
71 not authorized by the insurer;

72 (c) It purports to assign or transfer the right to enforce
73 payment for post-loss benefits in the policy;

74 (d) It prevents or inhibits an insurer from communicating
75 with the insured at any time; or

76 (e) It purports to transfer or create any authority to
77 adjust, negotiate, or settle any portion of a claim to a person
78 or entity who is not authorized to adjust, negotiate, or settle
79 a claim on behalf of the insured or claimant under part VI of
80 chapter 626.

81 (3) This section does not apply to a power of attorney
82 granted to a management company, family member, guardian, or
83 similarly situated person which complies with chapter 709 and
84 which may include, as part of the authority granted, the
85 authority to act in place of a principal as it relates to a
86 property insurance claim.

87 Section 2. This act applies to post-loss assignments or

8-00473C-16

2016596__

88 transfers of rights, benefits, or policy provisions not related
89 to liability coverage which are executed after the effective
90 date of this act.

91 Section 3. This act shall take effect upon becoming a law.