

26 which post-loss benefits under a residential property insurance
27 policy are assigned to a person providing services to protect,
28 repair, restore, or replace such property or to mitigate against
29 further damage to such property.

30 (b) "Disputed amount" means the difference between the
31 presuit settlement demand and the presuit settlement offer.

32 (c) "Judgment obtained" means damages recovered, if any,
33 but does not include any amount awarded for interest, attorney
34 fees, or costs.

35 (d) "Presuit settlement demand" means the presuit
36 settlement demand made by the assignee in the written notice of
37 intent to initiate litigation as required by paragraph (7) (a).

38 (e) "Presuit settlement offer" means the presuit
39 settlement offer made by the insurer in its written response to
40 the notice of intent to initiate litigation as required by
41 paragraph (7) (b).

42 (2) An assignment agreement that does not comply with this
43 subsection is invalid and unenforceable.

44 (a) An assignment agreement must:

45 1. Be in writing and executed concurrently by and between
46 a named insured and the assignee.

47 2. Contain a provision that allows the assignor to rescind
48 the assignment agreement, without a penalty, rescission fee, or
49 cancellation fee, by having the assignor sign a notice within 7
50 business days after the execution date of the assignment

51 agreement and by notifying the assignee of the rescission. The
52 assignor may rescind the assignment agreement for any reason
53 during the 7-day period. The assignor shall be responsible for
54 payment for contracted work performed before the agreement is
55 rescinded.

56 3. Contain a provision requiring the assignee to provide a
57 copy of the executed assignment agreement to the insurer within
58 3 business days after the date the assignment agreement is
59 executed or the date work begins, whichever is earlier. Delivery
60 may be made:

61 a. By personal service, overnight delivery, or electronic
62 transmission, with evidence of delivery in the form of a receipt
63 or other paper or electronic acknowledgement by the insurer; or

64 b. To the location designated for receipt of such
65 agreements as specified in the policy.

66 4. Contain a written, itemized, per-unit cost estimate of
67 the services to be performed by the assignee. If the statement
68 of services includes a claim for water restoration services, the
69 statement must also include proof that the assignee or
70 subcontractor of the assignee possesses a valid certification
71 from an entity that requires water remediation to be performed
72 according to a standard that is approved by the American
73 National Standards Institute.

74 5. Relate only to work to be performed by the assignee for
75 services to protect, repair, restore, or replace dwellings or

76 structures or to mitigate against further damage to such
77 property.

78 6. Contain the following notice in uppercase 14-point
79 type:

80
81 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR
82 INSURANCE POLICY TO A THIRD PARTY WHICH MAY RESULT IN LITIGATION
83 AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT
84 BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT
85 WITHOUT PENALTY WITHIN 7 BUSINESS DAYS AFTER THE DATE THIS
86 AGREEMENT IS EXECUTED. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF
87 ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED.
88 THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE
89 DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

90 (b) An assignment agreement may not contain:

91 1. A penalty or fee for rescission of the assignment
92 agreement pursuant to subparagraph (a)2.;

93 2. A check or mortgage processing fee;

94 3. A penalty or fee for cancellation of the assignment
95 agreement; or

96 4. An administrative fee.

97 (3) In a claim arising under an assignment agreement, an
98 assignee has the burden to demonstrate that the insurer is not
99 prejudiced by the failure of the assignee to:

100 (a) Maintain records of all services provided under an

101 assignment agreement.

102 (b) Cooperate with the insurer in the investigation of a
103 claim.

104 (c) Provide the insurer with requested records and
105 documents related to the services provided and to permit the
106 insurer to make copies of such records and documents.

107 (d) Deliver a copy of the executed assignment agreement to
108 the insurer within 3 business days after the execution of the
109 assignment agreement or work has begun, whichever is earlier.

110 (4) An assignee:

111 (a) Must provide the assignor with accurate and up-to-date
112 revised statements of the scope of work to be performed as
113 supplemental or additional repairs are required.

114 (b) Must perform the work to conform with current and
115 accepted industry standards.

116 (c) May not seek payment from the assignor more than the
117 applicable deductible under the policy unless the assignor chose
118 to have additional work performed at the assignor's own expense.

119 (d) Must, as a condition precedent to filing suit under
120 the policy, and if required by the insurer, submit to
121 examinations under oath and recorded statements conducted by the
122 insurer or the insurer's representative which are reasonably
123 necessary, based on the scope of the work and the complexity of
124 the claim, and limited to matters related to the services
125 provided, the cost of the services, and the assignment.

126 (e) Must, as a condition precedent to filing suit under
127 the policy, and if required by the insurer, participate in
128 appraisal or other alternative dispute resolution methods in
129 accordance with the terms of the property insurance policy.

130 (5) An assignment agreement and this section do not modify
131 or eliminate any term, condition, or defense relating to any
132 managed repair arrangement provided for in the property
133 insurance policy.

134 (6) Notwithstanding any other provision of law, the
135 acceptance by an assignee of an assignment agreement is a waiver
136 by the assignee and subcontractors of the assignee, of claims
137 against named insureds for payments arising from the assignment
138 agreement. The assignee and subcontractors may not collect or
139 attempt to collect money from, maintain any action at law
140 against, or claim a lien on the real property of an insured or
141 report an insured to a credit agency for payments arising from
142 the assignment agreement. However, named insureds remain
143 responsible for the payment of any deductible amount under an
144 insurance policy, any contracted work performed before the
145 assignor rescinded the assignment agreement, and any betterment
146 ordered and approved by the assignor. Such waiver remains in
147 effect after rescission of the assignment agreement by the
148 assignor or after a determination that the assignment agreement
149 is invalid.

150 (7) (a) An assignee must provide the insurer and the

151 assignor with a written notice of intent to initiate litigation
152 before filing suit under the policy. Such notice must be served
153 at least 10 business days before filing suit, but may not be
154 served before the insurer has made a determination of coverage
155 under s. 627.70131. The notice must specify the damages in
156 dispute, the amount claimed, and any presuit settlement demand.
157 Concurrent with the notice, and as a precondition to filing
158 suit, the assignee must provide the insurer and the assignor a
159 detailed written invoice or estimate, including itemized
160 information on equipment, materials, and supplies; the number of
161 labor hours; and, in the case of work performed, proof the work
162 has been performed in accordance with current industry
163 standards. If the invoice or estimate includes a claim for water
164 restoration services, the assignee must provide proof of the
165 certification required by subparagraph (2) (a) 4.

166 (b) An insurer must respond in writing to the notice
167 within the 10-day period specified in paragraph (a) by making a
168 presuit settlement offer or requiring appraisal or other method
169 of alternative dispute resolution as may be provided in the
170 policy. An insurer must have a procedure for the prompt
171 investigation, review, and evaluation of the dispute stated in
172 such notice and must investigate the claims contained in the
173 notice in accordance with the Florida Insurance Code.

174 (8) Notwithstanding any other law to the contrary, in a
175 proceeding related to an assignment agreement for post-loss

176 claims arising under a residential property insurance policy,
177 attorney fees and costs may only be recovered by an assignee
178 under s. 57.105 and this subsection.

179 (a) If the difference between the judgment obtained by the
180 assignee and the presuit settlement offer is less than 25
181 percent of the disputed amount, the insurer is entitled to an
182 award of reasonable attorney fees. If the difference between the
183 judgment obtained by the assignee and the presuit settlement
184 offer is at least 25 percent but less than 50 percent of the
185 disputed amount, no party is entitled to an award of attorney
186 fees. If the difference between the judgment obtained by the
187 assignee and the presuit settlement offer is at least 50 percent
188 of the disputed amount, the assignee is entitled to an award of
189 reasonable attorney fees.

190 (b) If the insurer fails either to inspect the property or
191 to provide written or verbal authorization for repairs within 7
192 calendar days after the first notice of loss, the insurer waives
193 its right to an award of attorney fees under this subsection. If
194 the failure to inspect the property or to provide written or
195 verbal authorization for repairs was the result of an event for
196 which the Governor had declared a state of emergency pursuant to
197 s. 252.36, factors beyond the control of the insurer which
198 reasonably prevented an inspection or written or verbal
199 authorization for repairs, or the named insureds' failure or
200 inability to allow an inspection of the property after a request

201 by the insurer, the insurer does not waive its right to an award
 202 of attorney fees under this subsection.

203 (9) This section does not apply to:

204 (a) An assignment, transfer, or conveyance granted to a
 205 subsequent purchaser of the property with an insurable interest
 206 in the property following a loss;

207 (b) A power of attorney under chapter 709 that grants to a
 208 management company, family member, guardian, or similarly
 209 situated person of an insured that includes the authority to act
 210 on behalf of an insured as it relates to a property insurance
 211 claim; or

212 (c) Liability coverage under a property insurance policy.

213 (10) The office shall require each insurer to report by
 214 January 30, 2020, and each year thereafter, data on each
 215 residential property insurance claim paid in the prior calendar
 216 year pursuant to an assignment agreement. Such data must
 217 include, but are not limited to, specific data about claims
 218 adjustment and settlement timeframes and trends, grouped by
 219 whether litigated or not litigated; by loss adjustment expenses;
 220 and by the amount and type of attorney fees incurred or paid.

221 (11) This section applies to assignment agreements
 222 executed after July 1, 2017.

223 Section 2. Section 627.422, Florida Statutes, is amended
 224 to read:

225 627.422 Assignment of policies or post-loss benefits.—A

226 | policy may be assignable, or not assignable, as provided by its
227 | terms.

228 | (1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its
229 | terms relating to assignability, any life or health insurance
230 | policy under the terms of which the beneficiary may be changed
231 | upon the sole request of the policyowner may be assigned either
232 | by pledge or transfer of title, by an assignment executed by the
233 | policyowner alone and delivered to the insurer, whether or not
234 | the pledgee or assignee is the insurer. Any such assignment
235 | shall entitle the insurer to deal with the assignee as the owner
236 | or pledgee of the policy in accordance with the terms of the
237 | assignment, until the insurer has received at its home office
238 | written notice of termination of the assignment or pledge or
239 | written notice by or on behalf of some other person claiming
240 | some interest in the policy in conflict with the assignment.

241 | (2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE
242 | POLICIES.—A personal lines residential property insurance policy
243 | or a commercial residential property insurance policy may not
244 | prohibit the assignment of post-loss benefits.

245 | Section 3. This act shall take effect July 1, 2017.