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LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete lines 52 - 157

and insert:

Section 1. Subsection (1) of section 627.409, Florida Statutes, is amended to read:

627.409 Representations in applications; warranties.-

(1) Any statement or description made by or on behalf of an insured or annuitant in an application for an insurance policy or annuity contract, or in negotiations for a policy or contract, is a representation and not a warranty. Except as



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12 provided in subsection (3), a misrepresentation, omission,
13 concealment of fact, or incorrect statement may prevent recovery
14 under the contract or policy only if the misrepresentation,
15 omission, concealment of fact, or incorrect statement directly
16 relates to the cause of the claim being made and any of the
17 following apply:

18 (a) The misrepresentation, omission, concealment, or
19 statement is fraudulent or is material to the acceptance of the
20 risk or to the hazard assumed by the insurer.

21 (b) If the true facts relative to the loss claimed had been
22 known to the insurer pursuant to a policy requirement or other
23 requirement, the insurer in good faith would not have:

24 1. Issued the policy or contract;~~it would not have~~

25 2. Issued the policy or contract ~~it~~ at a ~~the same~~ premium
26 rate at least 20 percent higher than the rate actually charged;~~it~~
27 ~~would not have~~

28 3. Issued a policy or contract in as large an amount;~~it~~ or

29 4. ~~would not have~~ Provided coverage with respect to the
30 hazard resulting in the loss.

31 Section 2. Section 627.422, Florida Statutes, is amended to
32 read:

33 627.422 Assignment of policies or post-loss benefits.—A
34 policy may be assignable, or not assignable, as provided by its
35 terms.

36 (1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its terms
37 relating to assignability, any life or health insurance policy
38 under the terms of which the beneficiary may be changed upon the
39 sole request of the policyowner may be assigned either by pledge
40 or transfer of title, by an assignment executed by the



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41 policyowner alone and delivered to the insurer, whether or not
42 the pledgee or assignee is the insurer. Any such assignment
43 shall entitle the insurer to deal with the assignee as the owner
44 or pledgee of the policy in accordance with the terms of the
45 assignment, until the insurer has received at its home office
46 written notice of termination of the assignment or pledge or
47 written notice by or on behalf of some other person claiming
48 some interest in the policy in conflict with the assignment.

49 (2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE
50 POLICIES.-A personal lines residential property insurance policy
51 or a commercial residential property insurance policy may not
52 restrict the assignment of post-loss benefits.

53 Section 3. Paragraph (a) of subsection (3) of section
54 627.7011, Florida Statutes, is amended to read:

55 627.7011 Homeowners' policies; offer of replacement cost
56 coverage and law and ordinance coverage.-

57 (3) In the event of a loss for which a dwelling or personal
58 property is insured on the basis of replacement costs:

59 (a) For a dwelling:7

60 1. The insurer must initially pay at least the actual cash
61 value of the insured loss, less any applicable deductible. The
62 insurer shall pay any remaining amounts necessary to perform
63 such repairs as work is performed and expenses are incurred. If
64 a total loss of a dwelling occurs, the insurer shall pay the
65 replacement cost coverage without reservation or holdback of any
66 depreciation in value, pursuant to s. 627.702.

67 2. The insurer may not require that a particular vendor
68 make repairs to such dwelling.

69 3. The insurer may not, unless expressly requested by the



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70 insured, recommend or suggest a particular vendor for repairs to
71 be made to such dwelling.

72 Section 4. Paragraph (a) of subsection (2) of section
73 627.706, Florida Statutes, is amended to read

74 627.706 Sinkhole insurance; catastrophic ground cover
75 collapse; definitions.—

76 (2) As used in ss. 627.706-627.7074, and as used in
77 connection with any policy providing coverage for a catastrophic
78 ground cover collapse or for sinkhole losses, the term:

79 (a) "Catastrophic ground cover collapse" means geological
80 activity that results in any of ~~all~~ the following:

81 1. The imminent ~~abrupt~~ collapse of the ground cover. ~~†~~

82 2. A depression in the ground cover clearly visible to the
83 naked eye and ~~†~~

84 ~~3.~~ Structural damage to the covered building, including the
85 foundation. ~~†~~ ~~and~~

86 ~~3.4.~~ The insured structure being condemned and ordered to
87 be vacated by the governmental agency authorized by law to issue
88 such an order for that structure, or being declared dangerous,
89 as defined in the Florida Building Code, by written notice of
90 the real and imminent threat to public safety which is from a
91 licensed professional engineer to the governmental agency having
92 code enforcement authority for the structure.

93
94 Contents coverage applies if there is a loss resulting from a
95 catastrophic ground cover collapse. Damage consisting merely of
96 the settling or cracking of a foundation, structure, or building
97 does not constitute a loss resulting from a catastrophic ground
98 cover collapse, unless the building has been ordered to be



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99 vacated, or is declared dangerous by a licensed professional
100 engineer or the governmental agency having code enforcement
101 authority for the structure.

102 Section 5. Section 627.7152, Florida Statutes, is created
103 to read:

104 627.7152 Assignment of residential homeowner's property
105 insurance post-loss benefits; prelitigation invoice; offer of
106 settlement; annual reporting.—

107 (1) An agreement to assign post-loss benefits of a
108 residential homeowner's property insurance policy is not valid
109 unless the agreement:

110 (a) Is in writing;

111 (b) Is limited to claims for work performed or work to be
112 performed by the assignee;

113 (c) Contains an accurate and up-to-date statement of the
114 scope of work to be performed;

115 (d) Allows the insured to rescind the assignment within 7
116 days after the execution of the assignment without a penalty or
117 fee;

118 (e) Prohibits any check or mortgage processing fee or
119 administrative fee;

120 (f) Provides that the insured or the insurer may be
121 responsible for payment for any work performed before the
122 rescission of the assignment; and

123 (g) Contains a provision, in 14-point boldfaced type, which
124 allows the insured to rescind the agreement within 7 days after
125 execution of the assignment, and with a notice that if the
126 assignment is rescinded, the homeowner is responsible to pay for
127 the work done up to the date of the rescission and that the



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128 homeowner is not otherwise responsible to pay for the work
129 covered by the assignment.

130 (2) (a) The assignee shall provide a copy of the assignment
131 agreement to the insurer within 5 days after execution of the
132 agreement if the insurer has a facsimile number and

133
134 ===== T I T L E A M E N D M E N T =====

135 And the title is amended as follows:

136 Delete lines 2 - 17

137 and insert:

138 An act relating to insurance; amending s. 627.409,
139 F.S.; adding and revising conditions under which
140 certain misrepresentations, omissions, concealments of
141 fact, or incorrect statements may prevent recovery
142 under an insurance policy or annuity contract;
143 amending s. 627.422, F.S.; providing that personal
144 lines residential and commercial residential property
145 insurance policies may not restrict the assignment of
146 post-loss benefits; amending s. 627.7011, F.S.;

147 prohibiting specified acts by insurers relating to
148 certain losses under homeowners' insurance policies;
149 amending s. 627.706, F.S.; revising the definition of
150 the term "catastrophic ground cover collapse" for
151 purposes of certain provisions relating to sinkhole
152 coverage in property insurance contracts; creating s.
153 627.7152, F.S.; providing that