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LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 627.7152, Florida Statutes, is created to read:

627.7152 Assignment of residential homeowner's property insurance post-loss benefits.—

(1) An agreement to assign post-loss benefits of a residential homeowner's property insurance policy is not valid



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11 unless the agreement:

12 (a) Is in writing;

13 (b) Is limited to claims for work performed or work to be
14 performed by the assignee to protect or repair property from
15 damage, including, but not limited to, work to stabilize,
16 protect, repair, or improve such property;

17 (c) Allows the insured to rescind the assignment within 3
18 days after the execution of the assignment without a penalty or
19 fee;

20 (d) Contains the following notice in 14-point bold type to
21 the consumer:

22
23 "WARNING: IF YOU HAVE RESIDENTIAL HOMEOWNERS PROPERTY
24 INSURANCE, YOU MAY BE AGREEING TO GIVE UP CERTAIN
25 RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD
26 PARTY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE
27 SIGNING IT. WITH THE EXCEPTION OF PAYMENT FOR WORK
28 ALREADY PERFORMED BY A SERVICE PROVIDER TO PREVENT
29 ADDITIONAL DAMAGE FROM OCCURRING TO THE PROPERTY
30 RESULTING FROM EMERGENCY OR URGENT CIRCUMSTANCES, YOU
31 HAVE THE RIGHT TO RESIND THIS AGREEMENT WITHOUT
32 PENTALTY WITHIN 3 BUSINESS DAYS AFTER THE DATE THIS
33 AGREEMENT IS EXECUTED. IF THE ASSIGNMENT IS RESCINDED,
34 YOU ARE RESPONSIBLE TO PAY FOR THE WORK DONE UP TO THE
35 DATE OF THE RESCISSION AND YOU ARE NOT OTHERWISE
36 RESPONSIBLE TO PAY FOR THE WORK COVERED BY THE
37 ASSIGNMENT. IF WORK IS BEING PERFORMED AS A RESULT OF
38 DAMAGES CAUSED BY AN EVENT FOR WHICH THE GOVERNOR HAS
39 DECLARED A STATE OF EMERGENCY AND IS WITHIN 1 YEAR



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40 AFTER SUCH DECLARATION, THE 3 BUSINESS DAY PERIOD TO
41 RESIND THIS AGREEMENT IS EXTENDED TO 5 BUSINESS DAYS.
42 THIS AGREEMENT DOES NOT CHANGE YOUR DUTIES UNDER YOUR
43 PROPERTY INSURANCE POLICY, SUCH AS PROMPTLY NOTIFYING
44 YOUR INSURANCE COMPANY OF A LOSS AND MITIGATING YOUR
45 PROPERTY FROM FURTHER DAMAGE.

46
47 (2) (a) The assignee shall provide a copy of the assignment
48 agreement to the insurer within 5 days after execution of the
49 agreement, or within 48 hours after beginning nonemergency work,
50 whichever is earlier, if the insurer has a facsimile number and
51 email address on its website designated for the delivery of such
52 documents. This assignment agreement must be accompanied by a
53 written estimate of the work to be done, with unit prices
54 indicated where appropriate, and the basis for calculating lump
55 sum fees if unit prices are inappropriate. The estimate must be
56 timely updated if conditions require a change in scope. The
57 failure to comply with this requirement constitutes a defense to
58 any payment obligation under the policy or the assignment, if
59 the insurer can establish prejudice resulting from the failure.

60 (3) Notwithstanding any other law, the acceptance by a
61 person of any assignment agreement constitutes a waiver by the
62 assignee or transferee, and any subcontractor of the assignee or
63 transferee, of any and all claims against all named insureds for
64 payment arising from the specified loss, except that all named
65 insureds remain responsible for the payment of any deductible
66 amount provided for by the terms of the insurance policy and for
67 the cost of any betterment ordered by all named insureds. This
68 waiver remains in effect notwithstanding any subsequent



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69 determination that the assignment agreement is invalid or
70 notwithstanding the rescission of the assignment agreement by
71 all named insureds, except that the assignee is entitled to
72 payment for the reasonable cost of any contracted work performed
73 before the assignor rescinded the assignment agreement.

74
75 ===== T I T L E A M E N D M E N T =====

76 And the title is amended as follows:

77 Delete everything before the enacting clause
78 and insert:

79 A bill to be entitled
80 An act relating to assignment of residential
81 homeowners property insurance post-loss benefits;
82 creating s. 627.7152, F.S.; providing that an
83 agreement to assign post-loss benefits of a
84 residential homeowner's property insurance policy is
85 not valid unless specified conditions are met;
86 requiring the assignee to provide a copy of the
87 assignment agreement and a specified written estimate
88 to the insurer within a specified timeframe; requiring
89 the estimate to be timely updated if conditions
90 require a change in scope; providing construction
91 relating to failure to comply with such requirement;
92 providing that a person's acceptance of an assignment
93 agreement constitutes a waiver by the assignee or
94 transferee, or any subcontractor of the assignee or
95 transferee, of certain claims against named insureds,
96 except under specified circumstances; providing
97 construction relating to such waiver; providing an



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effective date.