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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 2400 - 2682

and insert:

(1) Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer



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and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had. In a suit arising under a residential or commercial property insurance policy, the amount of reasonable attorney fees shall be awarded only as provided in s. 57.105, ~~or~~ s. 627.70152, or s. 768.79, as applicable.

~~(4) In a suit arising under a residential or commercial property insurance policy, the right to attorney fees under this section may not be transferred to, assigned to, or acquired in any other manner by anyone other than a named or omnibus insured or a named beneficiary.~~

Section 14. Paragraph (b) of subsection (4) of section 627.7011, Florida Statutes, is amended to read:

627.7011 Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.—

(4)

(b) An insurer that issues a homeowner's insurance policy that does not provide flood insurance coverage must include on the policy declarations page ~~with the policy documents~~ at initial issuance and every renewal, in bold type no smaller than 18 points, the following statement:

"FLOOD INSURANCE: YOU SHOULD ~~MAY ALSO NEED TO~~ CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOUR ~~YOU MAY HAVE~~ UNCOVERED LOSSES



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CAUSED BY FLOOD ARE NOT COVERED. PLEASE DISCUSS THE
NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE
WITH YOUR INSURANCE AGENT."

Section 15. Effective March 1, 2023, present subsection (8)
of section 627.70131, Florida Statutes, is redesignated as
subsection (9), a new subsection (8) is added to that section,
and paragraph (a) of subsection (1), subsections (3), (4), and
(5), and paragraph (a) of subsection (7) of that section are
amended, to read:

627.70131 Insurer's duty to acknowledge communications
regarding claims; investigation.-

(1)(a) Upon an insurer's receiving a communication with
respect to a claim, the insurer shall, within 7 ~~14~~ calendar
days, review and acknowledge receipt of such communication
unless payment is made within that period of time or unless the
failure to acknowledge is caused by factors beyond the control
of the insurer ~~which reasonably prevent such acknowledgment~~. If
the acknowledgment is not in writing, a notification indicating
acknowledgment shall be made in the insurer's claim file and
dated. A communication made to or by a representative of an
insurer with respect to a claim shall constitute communication
to or by the insurer.

(3)(a) Unless otherwise provided by the policy of insurance
or by law, within 7 ~~14~~ days after an insurer receives proof-of-
loss statements, the insurer shall begin such investigation as
is reasonably necessary unless the failure to begin such
investigation is caused by factors beyond the control of the
insurer ~~which reasonably prevent the commencement of such~~



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69 ~~investigation.~~

70 (b) If such investigation involves a physical inspection of
71 the property, the licensed adjuster assigned by the insurer must
72 provide the policyholder with a printed or electronic document
73 containing his or her name and state adjuster license number.

74 ~~For claims other than those subject to a hurricane deductible,~~
75 An insurer must conduct any such physical inspection within 30
76 ~~45~~ days after its receipt of the proof-of-loss statements.

77 (c) Any subsequent communication with the policyholder
78 regarding the claim must also include the name and license
79 number of the adjuster communicating about the claim.
80 Communication of the adjuster's name and license number may be
81 included with other information provided to the policyholder.

82 (d) An insurer may use electronic methods to investigate
83 the loss. Such electronic methods may include any method that
84 provides the insurer with clear, color pictures or video
85 documenting the loss, including, but not limited to, electronic
86 photographs or video recordings of the loss, video conferencing
87 between the adjuster and the policyholder which includes video
88 recording of the loss, and video recordings or photographs of
89 the loss using a drone, driverless vehicle, or other machine
90 that can move independently or through remote control. The
91 insurer also may allow the policyholder to use such methods to
92 assist in the investigation of the loss. An insurer may void the
93 insurance policy if the policyholder or any other person at the
94 direction of the policyholder, with intent to injure, defraud,
95 or deceive any insurer, commits insurance fraud by providing
96 false, incomplete, or misleading information concerning any fact
97 or thing material to a claim using electronic methods. The use



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of electronic methods to investigate the loss does not prohibit an insurer from assigning a licensed adjuster to physically inspect the property.

~~(e) Within 7 days after the insurer's assignment of an adjuster to the claim,~~ The insurer must send ~~notify~~ the policyholder ~~that he or she may request~~ a copy of any detailed estimate of the amount of the loss within 7 days after the estimate is generated by an insurer's adjuster. ~~After receiving such a request from the policyholder, the insurer must send any such detailed estimate to the policyholder within the later of 7 days after the insurer received the request or 7 days after the detailed estimate of the amount of the loss is completed.~~ This paragraph does not require that an insurer create a detailed estimate of the amount of the loss if such estimate is not reasonably necessary as part of the claim investigation.

(4) An insurer shall maintain:

(a) A record or log of each adjuster who communicates with the policyholder as provided in paragraphs (3)(b) and (c) and provide a list of such adjusters to the insured, office, or department upon request.

(b) Claim records, including dates, of:

1. Any claim-related communication made between the insurer and the policyholder or the policyholder's representative;

2. The insurer's receipt of the policyholder's proof of loss statement;

3. Any claim-related request for information made by the insurer to the policyholder or the policyholder's representative;

4. Any claim-related inspections of the property made by



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the insurer, including physical inspections and inspections made
by electronic means;

5. Any detailed estimate of the amount of the loss
generated by the insurer's adjuster;

6. The beginning and end of any tolling period provided for
in subsection (8); and

7. The insurer's payment or denial of the claim.

(5) For purposes of this section, the term:

(a) "Factors beyond the control of the insurer" means:

1. Any of the following events that is the basis for the
office issuing an order finding that such event renders all or
specified residential property insurers reasonably unable to
meet the requirements of this section in specified locations and
ordering that such insurer or insurers may have additional time
as specified by the office to comply with the requirements of
this section: a state of emergency declared by the Governor
under s. 252.36, a breach of security that must be reported
under s. 501.171(3), or an information technology issue. The
office may not extend the period for payment or denial of a
claim for more than 30 additional days.

2. Actions by the policyholder or the policyholder's
representative which constitute fraud, lack of cooperation, or
intentional misrepresentation regarding the claim for which
benefits are owed when such actions reasonably prevent the
insurer from complying with any requirement of this section.

(b) "Insurer" means any residential property insurer.

(7) (a) Within 60 ~~90~~ days after an insurer receives notice
of an initial, reopened, or supplemental property insurance
claim from a policyholder, the insurer shall pay or deny such



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claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer ~~which reasonably prevent such payment~~. The insurer shall provide a reasonable explanation in writing to the policyholder of the basis in the insurance policy, in relation to the facts or applicable law, for the payment, denial, or partial denial of a claim. If the insurer's claim payment is less than specified in any insurer's detailed estimate of the amount of the loss, the insurer must provide a reasonable explanation in writing of the difference to the policyholder. Any payment of an initial or supplemental claim or portion of such claim made 60 ~~90~~ days after the insurer receives notice of the claim, or made ~~more than 15 days~~ after the expiration of any additional timeframe provided to pay or deny a claim or a portion of a claim made pursuant to an order of the office finding there are no longer factors beyond the control of the insurer ~~which reasonably prevented such payment~~, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured must select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(8) The requirements of this section are tolled:



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(a) During the pendency of any mediation proceeding under s. 627.7015 or any alternative dispute resolution proceeding provided for in the insurance contract. The tolling period ends upon the end of the mediation or alternative dispute resolution proceeding.

(b) Upon the failure of a policyholder or a representative of the policyholder to provide material claims information requested by the insurer within 10 days after the request was received. The tolling period ends upon the insurer's receipt of the requested information. Tolling under this paragraph applies only to requests sent by the insurer to the policyholder or a representative of the policyholder at least 15 days before the insurer is required to pay or deny the claim or a portion of the claim under subsection (7).

Section 16. Subsection (2) of section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of property insurance claim.—

(2) A claim or reopened claim, but not a supplemental claim, under an insurance policy that provides property insurance, as defined in s. 624.604, including a property insurance policy issued by an eligible surplus lines insurer, for loss or damage caused by any peril is barred unless notice of the claim was given to the insurer in accordance with the terms of the policy within 1 year ~~2 years~~ after the date of loss. A supplemental claim is barred unless notice of the supplemental claim was given to the insurer in accordance with the terms of the policy within 18 months ~~3 years~~ after the date of loss.

Section 17. Subsection (1) of section 627.70152, Florida



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Statutes, is amended to read:

627.70152 Suits arising under a property insurance policy.—

(1) APPLICATION.—This section applies exclusively to all suits ~~not brought by an assignee~~ arising under a residential or commercial property insurance policy, including a residential or commercial property insurance policy issued by an eligible surplus lines insurer.

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

And the title is amended as follows:

Delete lines 99 - 125

and insert:

627.428, F.S.; revising conditions under which attorney fees may be awarded in suits arising under a residential or commercial property insurance policy; deleting a restriction on transferring, assigning, or acquiring a certain right to attorney fees; amending s. 627.7011, F.S.; revising disclosure requirements relating to flood insurance for insurers issuing homeowners' policies; amending s. 627.70131, F.S.; revising requirements for insurers relating to acknowledging communications regarding claims, investigating claims, sending estimates of losses to policyholders, recordkeeping, and paying or denying claims; authorizing insurers to use specified methods in investigating losses; authorizing insurers to void insurance policies under certain circumstances; defining the term "factors beyond the control of the insurer"; specifying circumstances under which certain



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243 requirements are tolled; providing construction;
244 amending s. 627.70132, F.S.; revising timeframes under
245 which notices of claims, reopened claims, and
246 supplemental claims under property insurance policies
247 must be given to insurers or be barred; amending s.
248 627.70152, F.S.; revising applicability of provisions
249 relating to suits arising under a property insurance
250 policy; creating s. 627.70154, F.S.; specifying