

Tab 1 SB 76 by Boyd; (Compare to H 00305) Residential Property Insurance							
301036	A	S	UNFAV	BI, Rouson	Delete L.61 - 69.		02/02 06:34 PM
232144	A	S	RS	BI, Boyd	Delete L.97:		02/02 06:34 PM
977334	SA	S	RCS	BI, Boyd	Delete L.70 - 112:		02/02 06:34 PM
480584	ASA	S L	UNFAV	BI, Taddeo	Delete L.29 - 44:		02/02 06:34 PM
214308	A	S	UNFAV	BI, Rouson	Delete L.113 - 131.		02/02 06:34 PM
440438	A	S	UNFAV	BI, Thurston	Delete L.153 - 317.		02/02 06:34 PM
590314	A	S	UNFAV	BI, Thurston	Delete L.318 - 394.		02/02 06:34 PM
534640	A	S L	WD	BI, Taddeo	Delete L.93 - 108:		02/02 06:34 PM

Tab 2 SB 168 by Hooper; (Similar to H 00423) Hurricane Loss Mitigation Program							
866994	A	S	RCS	BI, Hooper	Delete L.50 - 53:		02/02 06:52 PM

Tab 3 SPB 7014 by BI; OGSR/Office of Insurance Regulation							
623288	A	S	FAV	BI, Taddeo	Delete L.106:		02/02 06:52 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Boyd, Chair
Senator Broxson, Vice Chair

MEETING DATE: Tuesday, February 2, 2021
TIME: 3:30—6:00 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Boyd, Chair; Senator Broxson, Vice Chair; Senators Brandes, Burgess, Gruters, Passidomo, Rodrigues, Rouson, Stargel, Stewart, Taddeo, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301

1	SB 76 Boyd (Compare H 305, S 212)	Residential Property Insurance; Providing that, for certain attorney fees awarded for claims arising under property insurance policies, a strong presumption is created that a lodestar fee is sufficient and reasonable; providing that certain provisions relating to homeowners' policies, offers of replacement cost coverage, and offers of law and ordinance coverage do not prohibit insurers from providing specified property insurance policies by including roof surface reimbursement schedules; requiring notice of intent to initiate litigation; authorizing an insurer to request to inspect, photograph, or evaluate certain property, etc. BI 02/02/2021 Fav/CS JU RC	Fav/CS Yeas 9 Nays 3
2	SB 168 Hooper (Similar H 423)	Hurricane Loss Mitigation Program; Correcting a cross-reference; delaying the future repeal of the Hurricane Loss Mitigation Program, etc. BI 02/02/2021 Fav/CS CA AP	Fav/CS Yeas 11 Nays 0
Consideration of proposed bill:			
3	SPB 7014	OGSR/Office of Insurance Regulation; Amending a provision removing the scheduled repeal of an exemption from public records requirements for certain proprietary business information and information that is confidential and held by the Office of Insurance Regulation, etc.	Submitted and Reported Favorably as Committee Bill Yeas 12 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 76

INTRODUCER: Banking and Insurance Committee and Senator Boyd

SUBJECT: Residential Property Insurance

DATE: February 4, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 76 makes various changes to address issues related to property insurance policies, claims, and litigation. The bill creates a strong presumption that in awarding attorney fees under s. 627.428, F.S., the lodestar amount is sufficient and reasonable, and is rebuttable only in “rare and exceptional” circumstances by evidence that competent counsel could not be retained in a reasonable manner. Only when such evidence is presented to the court could a contingency fee multiplier be applied in property insurance litigation. The lodestar amount, in the context of attorney fees awarded under s. 627.428, F.S., is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate for the services of the attorney of the insured or beneficiary.

The bill allows an insurer to offer homeowner’s insurance policies that adjust claims on roofs 10-years old or older on the basis of a roof surface reimbursement schedule without also having to offer a policy that provides replacement cost adjustment for such a roof. The roof surface reimbursement schedule must provide for repair, replacement, and installation based on the annual age of the roof and the roof surface type. In the event of a total loss, the insurer’s liability will be for the amount of the insured property as specified in the personal lines residential property insurance policy, as provided for in Florida’s Valued Policy Law.

The bill prevents the filing of a claim, supplemental claim, or reopened claim under a property insurance policy unless notice of the claim, supplemental claim, or reopened is provided to the insurer within 2 years of the date of the loss.

The bill creates s. 627.70152, F.S., governing suits brought by an insured or assignee arising under a property insurance policy. Claimants must provide notice prior to the filing of a lawsuit and make a presuit demand. Insurers may file to abate proceedings until notice has been perfected or where their rights to inspect are infringed.

The section revises how attorney fees are awarded to claimants. To award attorney fees, the court must compare the judgment to the demand and award fees based on a formula. If the quotient of the judgment obtained by the claimant divided by the demand made by the claimant is:

- Greater than or equal to 0.8, the claimant is entitled to an award of attorney fees in the full amount.
- Equal to or greater than 0.2 but less than 0.8, the claimant is entitled to an award of attorney fees equal to the product of the incurred reasonable attorney fees multiplied by the demand-judgment quotient. For example, if the claimant obtains a judgment of \$20,000 and the claimant's demand was \$40,000, the demand-judgment quotient would be 0.5. If the claimant's reasonable attorney fees were \$10,000, the attorney fees paid by the insurer would be \$5,000, which is the product of multiplying \$10,000 in attorney fees by the demand judgment quotient of 0.5.
- Less than 0.2, the claimant is not entitled to an award of attorney fees.

The bill deletes conflicting definitions, notice of intent to initiate litigation requirements, and attorney fee calculation provisions under s. 627.7152, F.S., pertaining to assignment agreements.

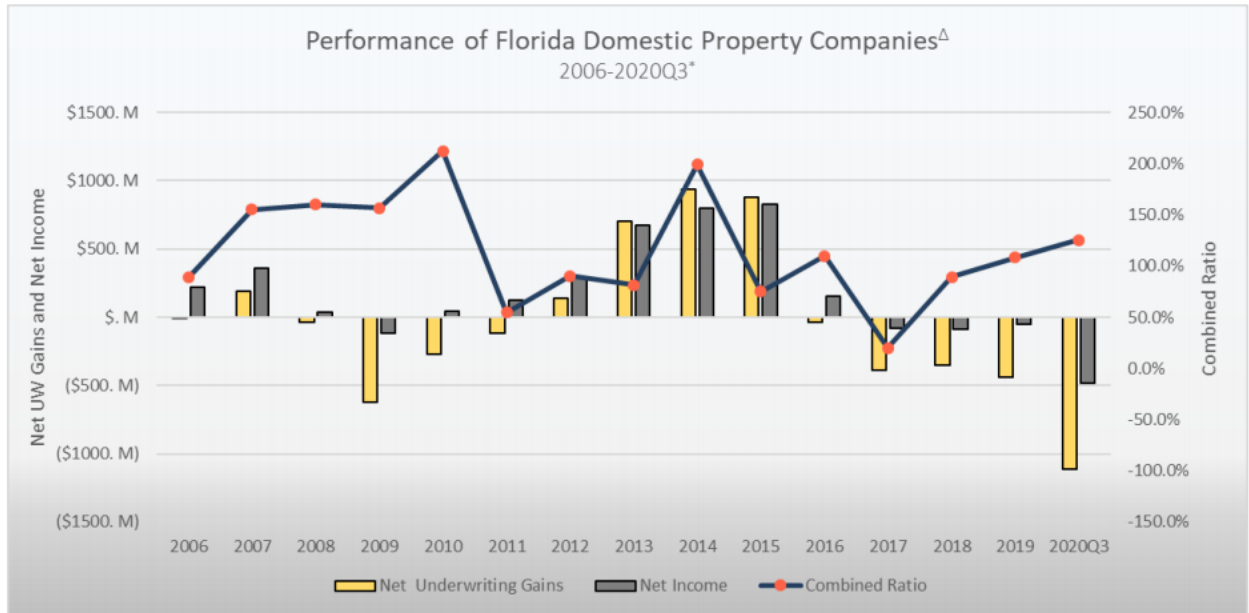
The bill takes effect July 1, 2021.

II. Present Situation:

Florida Residential Property Insurance Market Data

According to the Florida Office of Insurance Regulation (OIR), Florida domestic property insurers are on pace to double their losses in 2020 compared to 2019. The resulting combined ratios¹ are above 100 percent for the third year since 2017 and net underwriting losses have continued for the fifth year since 2015. Figure 1 below displays both the combined ratios and net underwriting gains (losses) of domestic property insurers between 2006 and the third quarter of 2020.

¹ The combined ratio is the sum of the expense ratio and the loss ratio. A combined ratio below 100 percent indicates underwriting profits, whereas a combined ratio above 100 percent indicates underwriting losses.



Δ The domestic companies do not include Citizens Property Insurance Corporation. The data is from financial statements submitted to the National Association of Insurance Commissioners.

Figure 1. Financial Performance of Florida’s Domestic Property Market.²

OIR similarly reports an increasing trend of domestic property insurers filing for rate increases. Insurers submitted 105 rate filings in 2020 for increases of 10 percent or more, with OIR approval approving 55 of those filings. In 2016, OIR approved only 6 rate increases of at least 10 percent.³ Figure 2 below displays the percentage of approved filings for rates increases above 10 percent between 2016 and December 8, 2020.

² Data provided by the Florida Office of Insurance Regulation to the Senate Committee on Banking and Insurance on January 12, 2021 (Senate Meeting Packet) https://www.flsenate.gov/Committees/Show/BI/MeetingPacket/4966/8842_MeetingPacket_4966.pdf (last visited January 27, 2021).

³ Florida Senate, *Meeting of the Committee on Banking and Insurance* (January 12, 2021)(statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation)

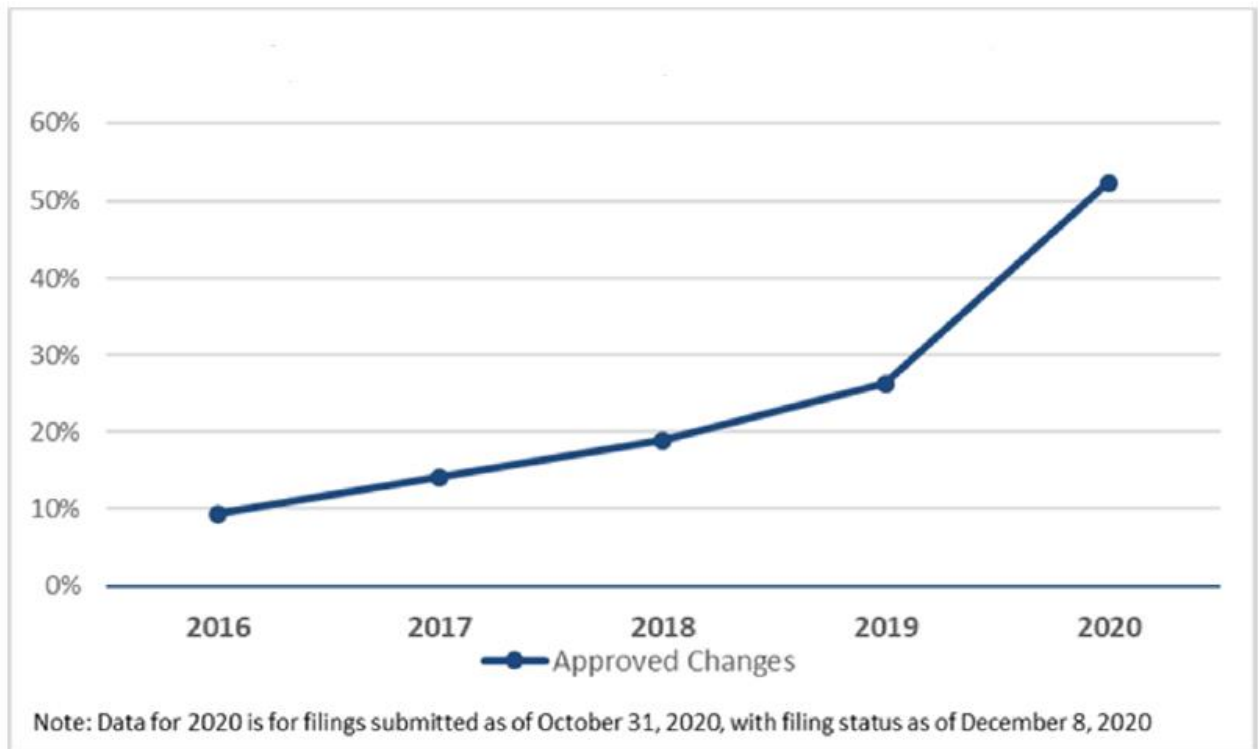


Figure 2. OIR-Approved Property Insurance Rate Increases Greater than 10 Percent.⁴

In a presentation to the Florida Senate Committee on Banking and Insurance on January 12, 2021, the State Insurance Commissioner attributed the net underwriting losses, combined ratios, and resulting rate increases displayed above to several related trends and behaviors present in Florida’s domestic property insurance market:

- Claims with litigation;
- Claims solicitation; and
- Adverse loss reserve development⁵

In 2020, OIR conducted a data call of Florida’s domestic property insurers.⁶ According to the State Insurance Commissioner, the data call showed that the severity of non-weather water claims with litigation is nearly double claims that are closed without litigation.⁷ Figure 3 below displays the claims severity disparity between non-weather water claims with litigation and such claims without litigation between the fourth quarter of 2017 and the first quarter of 2020.

⁴ Data provided by the Florida Office of Insurance Regulation to the Senate Committee on Banking and Insurance on January 12, 2021 (Senate Meeting Packet) https://www.flsenate.gov/Committees/Show/BI/MeetingPacket/4966/8842_MeetingPacket_4966.pdf (last visited January 27, 2021).

⁵ Florida Senate, *Meeting of the Committee on Banking and Insurance* (January 12, 2021)(statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation)

⁶ <https://www.floir.com/Sections/PandC/AssignmentofBenefits.aspx> (last visited January 27, 2021).

⁷ Florida Senate, *Meeting of the Committee on Banking and Insurance* (January 12, 2021)(statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation)

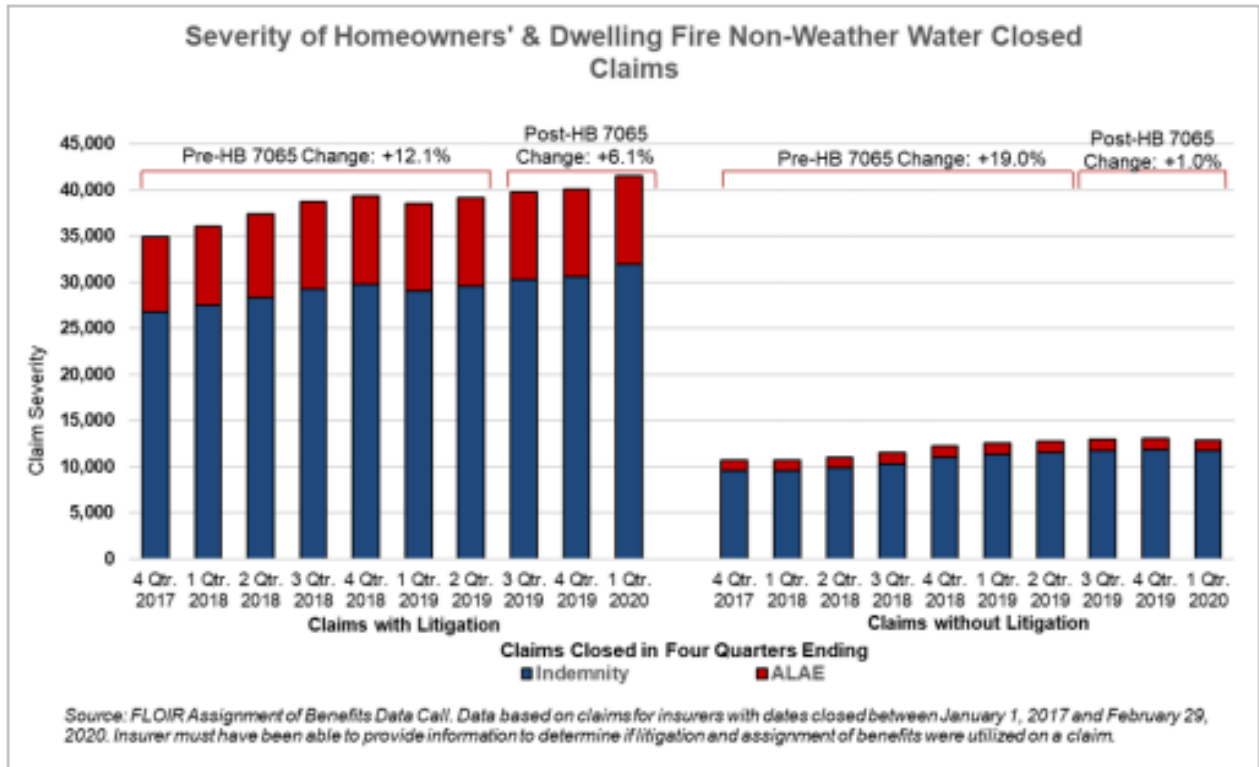


Figure 3. Claims Severity of Claims with Litigation versus Claims without Litigation.⁸

According to OIR, increased severity of claims with litigation is driving adverse loss reserve development, leading to high rate filings.⁹ Loss reserve development is the difference between the original loss as initially reserved by the insurer and its subsequent evaluation later or at the time of its final disposal.¹⁰ When adverse loss reserve development occurs, the claim costs more than its reserve as originally estimated by the insurer. The table below displays the adverse loss reserve development of Florida’s domestic property insurers. The 1-year and 2-year look-backs periods for calendar years 2018 and 2019 show claims costing \$241-\$682 million more than their corresponding loss reserves.

⁸ Data provided by the Florida Office of Insurance Regulation to the Senate Committee on Banking and Insurance on January 12, 2021 (Senate Meeting Packet)

https://www.flsenate.gov/Committees/Show/BI/MeetingPacket/4966/8842_MeetingPacket_4966.pdf (last visited January 27, 2021).

⁹ Florida Senate, *Meeting of the Committee on Banking and Insurance* (January 12, 2021)(statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation)

¹⁰ International Risk Management Institute, *Glossary*, <https://www.irmi.com/term/insurance-definitions/loss-development> (last visited January 27, 2021).

Florida Domestic Property Insurance Market Adverse Loss Reserve Development ¹¹		
Year	1-Year Look-Back	2-Year Look-Back
2018	\$418 million	\$241 million
2019	\$422 million	\$682 million

Figure 4 below provides another look at the increasing multi-year trend, displaying adverse loss reserve development between 2015 and 2019.

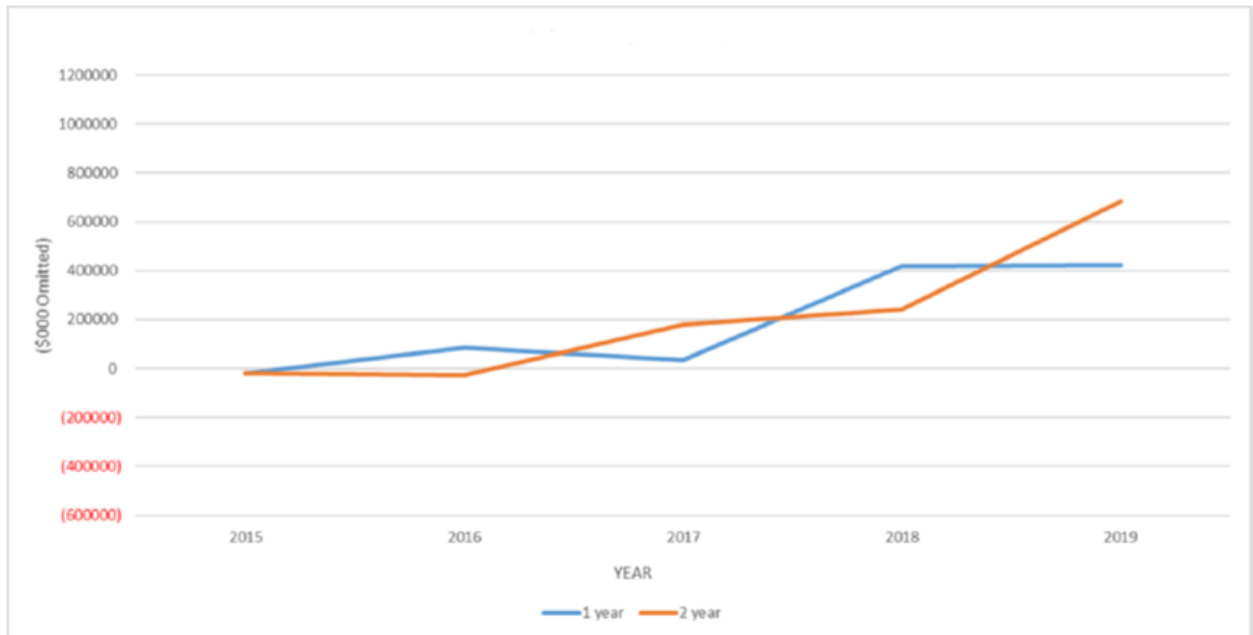


Figure 4. Loss Reserve Development in Florida’s Domestic Property Insurance Market¹²

OIR and Citizens Property Insurance Corporation (Citizens) have also analyzed the contribution of claims volume following a loss to the multi-year adverse loss reserve development present in Florida’s domestic property insurance market. Following the expiration of the 3-year claims filing deadline for Hurricane Irma in September 2020, Citizens analyzed the development of claims by Citizens policyholders related to Hurricane Irma.¹³ Citizens’ analysis shows more than 90 percent of total claims were filed within 2 years of experiencing a Hurricane Irma-related loss. The analysis further shows an increasing frequency of claims were filed with legal representation at the first notice of loss. This increasing trend continued in the subsequent out-years following Hurricane Irma.

¹¹ Florida Senate, *Meeting of the Committee on Banking and Insurance* (January 12, 2021)(statement of David Altmaier, Commissioner, Florida Office of Insurance Regulation).

¹² Data provided by the Florida Office of Insurance Regulation to the Senate Committee on Banking and Insurance on January 12, 2021 (Senate Meeting Packet) https://www.flsenate.gov/Committees/Show/BI/MeetingPacket/4966/8842_MeetingPacket_4966.pdf (last visited January 27, 2021).

¹³ Data provided by Citizens Property Insurance Corporation to the Senate Committee on Banking and Insurance on January 12, 2021 (Senate Meeting Packet) https://www.flsenate.gov/Committees/Show/BI/MeetingPacket/4966/8842_MeetingPacket_4966.pdf (last visited January 14, 2021).

Citizens Hurricane Irma-Related Claims¹⁴				
Year Filed	Total Filed	% of Total Irma Claims Filed	Total Filed w/ Representation at First Notice of Loss	% Filed w/ Representation at First Notice of Loss
2017	61,677	79.8%	6,393	10.3%
2018	7,579	9.8%	3,269	43.1%
2019	4,374	5.7%	2,769	63.3%
2020*	3,645	4.7%	2,352	64.5%
Total	77,275	100.0%	14,783	19.1%

As of October 28, 2020

*3-year claims filing deadline occurred in September 2020.

Following the expiration of the 3-year claims filing deadline for Hurricane Irma in September 2020, OIR analyzed the development of claims by all domestic property policyholders related to Hurricane Irma. Similarly to the Citizen’s analysis, OIR shows more than 90 percent of total claims were filed within 2 years of experiencing a Hurricane Irma-related loss.

Hurricane Irma-Related Claims in Florida¹⁵		
Data Call	Total Filed	% of Total Irma Claims Filed
November 2018	1,002,821	89.1%
January 2020	60,014	5.3%
November 2020	62,753	5.6%
Total	1,125,588	100.0%

Attorney Fees in Insurance Litigation

In most United States jurisdictions, each party to the litigation pays its own attorney, regardless of the outcome of the litigation, and a court may only award attorney fees to the prevailing side if authorized by statute or agreement of the parties to the litigation.¹⁶ This is often referred to as the “American Rule” for attorney fees, and contravenes the “English Rule” under which English courts generally awarded attorney fees to the prevailing party in litigation.¹⁷

Florida has enacted a number of statutes that authorize the award of attorney fees in civil litigation. As the Florida Supreme Court (Court) has noted, these statutory provisions are of two types.¹⁸ In the first, statutes direct the courts to assess attorney fees against only one side of the litigation in certain types of actions. An example is found in s. 627.428, F.S., which directs the court to assess the insurer a reasonable sum as fees for the prevailing party’s attorney. The second category adopts the English Rule, authorizing the prevailing party, whether plaintiff or defendant, to recover attorney fees from the opposing party. An example is found in the recently

¹⁴ Data provided by Citizens Property Insurance Corporation to the Senate Committee on Banking and Insurance on January 12, 2021 (Senate Meeting Packet)

https://www.flsenate.gov/Committees/Show/BI/MeetingPacket/4966/8842_MeetingPacket_4966.pdf (last visited January 14, 2021).

¹⁵ Email from Allison Hess Sitte, Director of Government Affairs, Florida Office of Insurance Regulation (January 26, 2021).

¹⁶ *Florida Patient’s Compensation Fund v. Rowe*, 472 So. 2d 1147-1148, (Fla. 1985).

¹⁷ *Id.*

¹⁸ *Id.*

enacted s. 627.7152, F.S., which directs the court to award an attorney fee to the statutorily defined prevailing party in assignment of benefits litigation under a residential or commercial property insurance policy.

Attorney Fees Arising from Insurance Litigation

Section 627.428, F.S., allows an insured to recover his or her own attorney fees if the insured prosecutes a lawsuit to enforce an insurance policy. Some version of this statute has been the law in Florida since at least 1893.¹⁹ The statute provides, in part:

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 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.²⁰

The Court recently explained the purpose of the statute:

The need for fee and cost reimbursement in the realm of insurance litigation is deeply rooted in public policy. Namely, the Legislature recognized that it was essential to “level the playing field” between the economically-advantaged and sophisticated insurance companies and the individual citizen. Most assuredly, the average policyholder has neither the finances nor the expertise to single-handedly take on an insurance carrier. Without the funds necessary to compete with an insurance carrier, often a concerned policyholder's only means to take protective action is to hire that expertise in the form of legal counsel... For this reason, the Legislature recognized that an insured is not made whole when an insurer simply grants the previously denied benefits without fees. The reality is that once the benefits have been denied and the plaintiff retains counsel to dispute that denial, additional costs that require relief have been incurred. Section 627.428, F.S., takes these additional costs into consideration and levels the scales of justice for policyholders by providing that the insurer pay the attorney's fees resulting from incorrectly denied benefits.²¹

¹⁹ See *Tillis v. Liverpool & London & Globe Insurance Company*, 35 So. 171 (1903) (rejecting an insurance company argument that the 1893 law providing that an insured may recover attorney fees in actions against an insurance company to enforce a policy violates due process and equal protection).

²⁰ Section 626.9373, F.S., contains substantially similar language but it applies to surplus lines insurers. Florida courts have interpreted the statutes to have the same meaning.

²¹ *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1215-1216 (Fla. 2016) (internal citations omitted).

Florida courts have broadly interpreted the statute to allow recovery of fees when the insurer ultimately settles the case before trial.²² A finding of bad faith on the part of the insurer is not a necessary precondition for the award of fees under the statute.²³

Lodestar Calculation

Florida courts set reasonable attorney fees using the federal lodestar approach, which is calculated as the product of the number of hours reasonably expended multiplied by a reasonable hourly rate.²⁴ In adopting a “suitable foundation for an objective structure” for the award of attorney fees, the Court explained in *Fla. Patient’s Comp. Fund v. Rowe*, that:

There is but little analogy between the elements that control the determination of a lawyer’s fee and those which determine the compensation of skilled craftsmen in other fields. Lawyers are officers of the court. The court is an instrument of society for the administration of justice. Justice should be administered economically, efficiently, and expeditiously. The attorney’s fee is, therefore, a very important factor in the administration of justice, and if it is not determined with proper relation to that fact it results in a species of social malpractice that undermines the confidence of the public in the bench and bar. It does more than that. It brings the court into disrepute and destroys its power to perform adequately the function of its creation.²⁵

In calculating the lodestar amount under *Rowe*, courts must consider the following elements:

- The time and labor required, the novelty and difficulty of the question involved, and the skill requisite to perform the legal service.
- The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- The fee customarily charged in the locality for similar legal services.
- The amount involved and the results obtained.
- The time limitations imposed by the client or by the circumstances.
- The nature and length of the professional relationship with the client.
- The experience, reputation, and ability of the lawyer or lawyers performing the services.
- Whether the fee is fixed or contingent.²⁶

²² *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1215 (Fla. 2016) (noting that it is “well settled that the payment of a previously denied claim following the initiation of an action for recovery, but prior to the issuance of a final judgment, constitutes the functional equivalent of a confession of judgment”).

²³ *Insurance Co. of North America v. Lexow*, 602 So.2d 528, 531 (Fla. 1992) (“We reject the argument that attorney’s fees should not be assessed against INA because this dispute involved a type of claim which reasonably could be expected to be resolved by a court. INA’s good faith in bringing this suit is irrelevant. If the dispute is within the scope of s. 627.428, F.S., and the insurer loses, the insurer is always obligated for attorney’s fees”).

²⁴ *Fla. Patient’s Comp. Fund v. Rowe*, 472 So. 2d 1145, 1150 (Fla. 1985).

²⁵ *Id.* at 1149 (quoting *Baruch v. Giblin*, 122 Fla. 59, 63, 164 So. 831, 833 (1935)).

²⁶ *Fla. Patient’s Comp. Fund v. Rowe*, 472 So. 2d 1145, 1150 (Fla. 1985).

Contingency Fee Multipliers – Florida Court Discretion to Apply a Contingency Fee Multiplier and the Contingency Fee Multiplier Schedule

Florida courts have discretion to consider applying a contingency fee multiplier to the produced lodestar amount.²⁷ However, before determining that a multiplier is warranted, a court must consider whether:

- The relevant market requires a contingency fee multiplier to obtain competent counsel.
- The attorney was able to mitigate the risk of nonpayment in any way.
- Any of the factors set forth in *Rowe* are applicable, especially, the amount involved, the results obtained, and the type of fee arrangement between the attorney and the client.²⁸

When a court concludes the presented evidence supports utilization of a multiplier, courts may use the following *Quanstrom* multiplier schedule:²⁹

Contingency Fee Multiplier	Case’s Likelihood of Success at Outset
1.0 to 1.5	More likely than not.
1.5 to 2.0	Approximately even.
2.0 to 2.5	Unlikely.

Florida’s adoption of this approach in *Rowe* was followed by a series of United States Supreme Court decisions rejecting and limiting the use of contingency fee multipliers in federal cases. In response, the Florida Supreme Court has reaffirmed Florida precedent and the underlying public policy reasoning for the use of contingency fee multipliers as articulated in *Rowe* on multiple occasions.

Federal Precedent Limiting the Use of Contingency Fee Multipliers

Following the Florida Supreme Court’s decision in *Rowe*, Justice Scalia, writing the majority opinion in *Dague*, couched his disapproval of contingency fee multipliers by reasoning that the multipliers incentivize nonmeritorious claims, so that those claims are effectively raised as often as meritorious claims:

[T]he consequence of awarding contingency enhancement to take account of this “merits” factor would be to provide attorneys with the same incentive to bring relatively meritless claims as relatively meritorious ones. Assume, for example, two claims, one with underlying merit of 20 percent, the other of 80 percent. Absent any contingency enhancement, a contingent-fee attorney would prefer to take the latter, since he is four times more likely to be paid. But with a contingency enhancement, this preference will disappear: the enhancement for the 20 percent claim would be a multiplier of 5 (100/20), which is quadruple the 1.25 multiplier (100/80) that would attach to the 80 percent claim. Thus, enhancement for the contingency risk posed by each case would encourage meritorious claims to be brought, but only at the social cost of indiscriminately encouraging

²⁷ *Joyce v. Federated National Insurance Company*, 228 So.3d 1122, 1124 (Fla. 2017).

²⁸ *Id.*

²⁹ *Id.*

nonmeritorious claims to be brought as well. We think that an unlikely objective of the “reasonable fees” provisions.³⁰

Building on *Dague*, the U.S. Supreme Court in *Perdue* further limited the use of contingency fee multipliers, reserving them for “rare and exceptional circumstances” in which the lodestar insufficiently accounts for a factor that may properly be considered in determining a reasonable fee.³¹ Such circumstances “require specific evidence that the lodestar fee would not have been ‘adequate to attract competent counsel.’”³²

Florida Precedent Approving the Use of Contingency Fee Multipliers

The Florida Supreme Court has rejected the U.S. Supreme Court’s reasonings in *Dague* and *Perdue* on multiple occasions. Beginning with *Bell*, the Court reaffirmed the *Rowe* rationale for contingency fee multipliers, explaining:

[W]e find that the primary policy that favors the consideration of the multiplier is that it assists parties with legitimate causes of action or defenses in obtaining competent legal representation even if they are unable to pay an attorney on an hourly basis. In this way, the availability of the multiplier levels the playing field between parties with unequal abilities to secure legal representation.³³

In *Lane*, the Court similarly noted the role full contingency fee cases, generally, and partial contingency fee cases, specifically, play in providing access to the court system:

Attorneys should be encouraged to take cases based on a partial contingency-fee arrangement, since this policy also will encourage attorneys to provide services to persons who otherwise could not afford the customary legal fee. No incentive would exist under the approach taken by the district court below, because no “enhancement” of the customary fee would be given to offset losses.³⁴

More recently, the Florida Supreme Court has rejected the “rare and exceptional” standard as articulated in *Perdue*. In *Joyce*, the Court held there is no “rare and exceptional” circumstances requirement before a court can apply a contingency fee multiplier.³⁵ *Joyce* also reaffirmed *Rowe*, *Quanstrom*, and *Bell*. Moreover, Justice Pariente, writing for the majority, criticized Justice Scalia’s reasoning from the majority opinion in *Dague*, arguing that Justice Scalia wrongly conflated nonmeritorious claims with claims that are unlikely to prevail in arguing that multipliers incentivize the pursuit of nonmeritorious claims.³⁶

Additional Statutes Applicable to the Award of Attorney Fees in Property Insurance Litigation

Section 627.428, F.S., generally governs the award of attorney fees in civil litigation under a property insurance policy. There are circumstances, however, where the insurer may obtain attorney fees from an insured. These circumstances include when litigation is brought by an

³⁰ *City of Burlington v. Dague*, 505 U.S. 557, 563 (1992).

³¹ *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 543 (2010).

³² *See id.* at 543.

³³ *Bell v. U.S.B. Acquisition Co. Inc.*, 734 So.2d 403, 411 (Fla. 1999).

³⁴ *Lane v. Head*, 566 So. 2d 508, 511 (Fla. 1990).

³⁵ *Joyce v. Federated National Insurance Company*, 228 So.3d 1122, 1135 (Fla. 2017).

³⁶ *Id.* at 1132-33.

assignee of benefits under a residential property insurance policy, when a claimant brings an action that has no good faith legal or genuine factual basis, or in certain circumstances when the insurer's offer of settlement is refused.

Attorney Fees Arising from Assignment of Benefits

Section 627.7152, F.S., prevents recovery of “one way” attorney fees under s. 627.428, F.S., for assignees of post-loss benefits under a residential property insurance policy or commercial property insurance policy, and instead provides a formulaic means by which either party may recover attorney fees.³⁷ An award of attorney fees is based on the difference between the judgment obtained and the presuit settlement offer. Fees are awarded as follows:

- If the difference between the judgment obtained and the presuit offer is less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.
- If the difference between the judgment obtained and the presuit offer is at least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees.
- If the difference between the judgment obtained and the presuit offer is at least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.³⁸

Attorney Fees Arising from Unsupported Claims, Defenses, or Delays

Section 57.105, F.S., provides the court with authority to award attorney fees, including prejudgment interest, to the prevailing party if the court finds the losing party or losing party's attorney brought a civil claim or raised a defense in a civil cause of action that has no good faith legal or genuine factual basis. The court may also award attorney fees if the opposing party took any action, including, but not limited to, the filing of any pleading or part thereof, the assertion of or response to any discovery demand, the assertion of any claim or defense, or the response to any request by any other party, for the primary purpose of unreasonable delay.³⁹

Attorney Fees Arising from Offers of Judgment

Section 768.79, F.S., provides for attorney's fees where a party's offer to settle a case has been rejected. The statute states, in part:

(1) In any civil action for damages filed in the courts of this state, if a defendant files an offer of judgment which is not accepted by the plaintiff within 30 days, the defendant shall be entitled to recover reasonable costs and attorney's fees incurred by her or him...if the judgment is one of no liability or the judgment obtained by the plaintiff is at least 25 percent less than such offer....If a plaintiff files a demand for judgment which is not accepted by the defendant within 30 days and the plaintiff recovers a judgment in an amount at least 25 percent greater than the offer, she or he shall be entitled to recover reasonable costs and attorney's fees....

An offer must:

- Be in writing and state that it is being made pursuant to this section;

³⁷ Chapter 2019-58, s. 23, Laws of Fla.

³⁸ Section 627.7152(10)(a), F.S.

³⁹ Section 57.105(2), F.S.

- Name the party making it and the party to whom it is being made;
- State with particularity the amount offered to settle a claim for punitive damages, if any; and
- State its total amount.⁴⁰

When determining the reasonableness of an award of attorney fees, the court must consider the following factors along with other relevant criteria:

- The then merit or lack of merit in the claim;
- The number and nature of offers made by the parties;
- The closeness of questions of fact and law at issue;
- Whether the person making the offer had unreasonably refused to furnish information necessary to evaluate the reasonableness of such offer;
- Whether the suit was in the nature of a test case presenting questions of far-reaching importance affecting nonparties; and
- The amount of the additional delay cost and expense that the person making the offer reasonably would be expected to incur if the litigation should be prolonged.

Section 768.79(7)(a), F.S., allows the court discretion to disallow an award of costs and attorney fees to the prevailing party if it is determined the prevailing party did not make the offer in good faith.

Property insurance litigation is subject to both s. 627.428, F.S., and s. 768.79, F.S.⁴¹ Florida courts will apply both statutes to the same litigation with s. 627.428, F.S. governing the award of attorney fees prior to the insurer making an offer of judgment, while both s. 627.428, F.S., or s. 768.79, F.S., apply to the award of attorney fees after an offer of judgment is made, depending on how much the insured recovers. An insurer’s offer of judgment, to be valid under s. 768.79, F.S., must include all damages, attorney fees, taxable costs, and prejudgment interest which would be included in a final judgment entered on the date of the offer of settlement.⁴² The Florida Supreme Court in *State Farm Mut. Auto Ins. Co. v. Nichols* explained how the two statutes interact in different circumstances by including the following chart in its opinion:⁴³

If the judgment is:	The insured receives:	The insurer receives:
No liability	No fees	Post-offer fees under the offer of judgment statute.
75 percent or less of the insurer’s offer	Pre-offer fees under s. 627.428, F.S.	Post-offer fees under the offer of judgment statute.
More than 75 percent of the insurer’s offer, but not more than 100 percent	Pre-offer fees under s. 627.428, F.S.	No fees.
More than the insurer’s offer	All fees under s. 627.428, F.S.	No fees.

⁴⁰ Section 768.79(2), F.S.

⁴¹ See *Pennsylvania Lumbermans Mut. Ins. Co. v. Sunrise Club Inc.*, 711 So.2d 593 (Fla. 3rd DCA 1998).

⁴² See *Scottsdale Ins. Co. v. DeSalvo*, 748 So.2d 941 (Fla. 1999).

⁴³ 932 So.2d 1067 at 1074 (Fla. 2006).

Replacement Cost and Actual Cash Value Loss Settlement Provisions

There are two primary settlement options available when purchasing a homeowner's property insurance policy: *replacement cost* and *actual cash value*. Replacement cost is usually defined in the policy as the cost to repair or replace the damaged property with materials of like kind and quality, without any deduction for depreciation.⁴⁴ Replacement cost is designed to cover the difference between what the property is actually worth and what it would cost to rebuild or repair that property.⁴⁵ Following a covered loss, the insurer assumes the full cost of repairing or replacing the damaged property.⁴⁶

By contrast, actual cash value is the cost to repair or replace the damage property with material of like kind and quality, minus the cost of depreciation due to use, wear, obsolescence, or age.⁴⁷ Following a covered loss, the insured assumes the cost to cover the difference between the depreciated value of the damaged property and the cost of repairing or replacing it.

Florida law currently requires that insurers writing homeowner's property insurance policies, must offer adjustment to the dwelling, including the roof, on the basis of replacement cost.⁴⁸ The Florida Office of Insurance Regulation will approve policy forms that adjust roof losses on the basis of actual cash value, or the depreciated value of the roof. The insurer must, however, also offer replacement cost adjustment on the roof before issuing the policy.

Roof Surface Payment Schedules

Roof surface payment schedules, sometimes referred to in residential property insurance policies as roof surfacing loss percentage tables, are depreciation tables that state upfront in either the individual policy or endorsement the cost the insurers will assume following a covered loss, expressed as a percentage of the loss amount. The depreciation rates in a roof surface payment schedule generally vary by the age of the roof and type of roof to account for differences in estimated roof lifespans based on roof surface material type.

The roof surface payment schedule example below from Nevada demonstrates the variance in depreciation rates between roof surface material type over time.

⁴⁴ National Association of Insurance Commissioners, *Glossary of Insurance Terms*, https://content.naic.org/consumer_glossary.htm (last visited January 4, 2021).

⁴⁵ See *Trinidad v. Florida Peninsula Ins. Co.*, 121 So.3d 433, 438 (Fla. 2013) (quoting *State Farm Fire & Cas. Co. v. Patrick*, 647 So.2d 983 (Fla. 3d DCA 1994))

⁴⁶ Insureds that elect for adjustment on the basis of replacement cost receive greater coverage than adjustment on the basis of actual cash value because depreciation is not excluded from replacement cost, whereas it is generally excluded from actual cash value. See *Trinidad* at 438 (quoting *Goff v. State Farm Florida Ins. Co.*, 999 So.2d 684, 689 (Fla. 2d DCA 2008))

⁴⁷ National Association of Insurance Commissioner, *Glossary of Insurance Terms*, https://content.naic.org/consumer_glossary.htm (last visited January 4, 2021).

⁴⁸ Section 627.7011(1), F.S.

Roof Surface Payment Schedule ⁴⁹								
The percentages shown for the type of roofing surface are applied to all components and installation including overhead, profit, labor, taxes, and fees associated with the replacement of the roofing system.								
Age of Roof in Years	Roof Surface Material Type							
	Class 3 or 4 Impact Resistant, Synthetic, Plastic, or Architectural Composition Shingles	All Other Composition or Solar Shingles	Wood Shingles or Shakes	Metal Shingles or Panels	Concrete Tile, Fiber Cement Tile, or Clay Tile	Slate	Built-up Tar With or Without Gravel, Rubber, Membrane, or Other Flat Roof Surface	All Other Roof Types
0	100%	100%	100%	100%	100%	100%	100%	100%
1	97%	96%	97%	98%	98%	99%	95%	95%
2	94%	92%	94%	96%	96%	98%	90%	90%
3	91%	88%	91%	94%	94%	97%	85%	85%
4	88%	84%	88%	92%	92%	96%	80%	80%
5	85%	80%	85%	90%	90%	95%	75%	75%
6	82%	76%	82%	88%	88%	94%	70%	70%
7	79%	72%	79%	86%	86%	93%	65%	65%
8	76%	68%	76%	84%	84%	92%	60%	60%
9	73%	64%	73%	82%	82%	91%	55%	55%
10	70%	60%	70%	80%	80%	90%	50%	50%
11	67%	56%	67%	78%	78%	89%	45%	45%
12	64%	52%	64%	76%	76%	88%	40%	40%
13	61%	48%	61%	74%	74%	87%	35%	35%
14	58%	44%	58%	72%	72%	86%	30%	30%
15	55%	40%	55%	70%	70%	85%	*****	*****
16	52%	36%	52%	68%	68%	84%		
17	49%	32%	49%	66%	66%	83%		
18	46%	28%	46%	64%	64%	82%		
19	43%	**	43%	62%	62%	81%		
20	40%		40%	60%	60%	80%		
21	37%		37%	58%	58%	79%		
22	34%		34%	56%	56%	78%		
23	31%		31%	54%	54%	77%		
24	28%		28%	52%	52%	76%		
25	*		*	50%	50%	75%		
26				48%	48%	74%		
27				46%	46%	73%		
28				44%	44%	72%		
29				42%	42%	71%		
30				***	***	****		

* 25% payable for 25 years or over; ** 25% payable for 19 years or over; *** 40% payable for 30 years or over; **** 70% payable for 30 years or over; ***** 25% payable for 15 years or over

⁴⁹ Nevada Division of Insurance, American Family Insurance Group – HO 88 02 01 14: Roof Surface Payment Schedule, http://doi.nv.gov/uploadedFiles/doinvgov/public-documents/Consumers/Home/American_Family/HO_88_02_01_14.pdf (last visited January 13, 2021).

Valued Policy Law

Florida's Valued Policy Law (VPL)⁵⁰ has been in effect since 1899 and requires the insurer to set the value of the insured property in the event of a total loss.⁵¹ In the event of a total loss caused by a covered peril, where the covered peril alone would have caused the loss, an insurer's liability under a property insurance policy equals the total coverage limit for which a premium was paid.⁵² However, in the event of total loss caused in part by a covered peril and in part by a noncovered peril, the insurer's liability is limited to the amount of the loss caused by the covered peril.⁵³

Florida's VPL currently applies to the total loss of buildings, structures, mobile homes, or manufactured buildings located in Florida and insured as to a covered peril. While it does not differentiate between residential and commercial property, it does not cover policies issued by surplus lines insurers.

First-Party and Third-Party Litigation under Residential Property Insurance Contracts

Under Florida law, first- and third-party litigants under a property insurance contract are sometimes subject to different sets of statutory and case law and procedural requirements.

Time Limits for Filing Claims and Statute of Limitations

Section 627.70132, F.S., currently requires insureds to notify an insurer of a claim, supplemental claim, or reopened windstorm or hurricane claim within 3 years after the hurricane first made landfall or the windstorm caused the covered damage. Section 627.706(5), F.S., currently requires insureds to notify an insurer of a claim, supplemental claim, or reopened sinkhole claim within 2 years after the insured knew or reasonably should have known about the loss.

For other types of property insurance claims, Florida law currently places a 5-year statute of limitations for bringing an action for the breach a property insurance contract that runs from the date of the loss.⁵⁴

Insurer's Duty to Respond to, Investigate, and Pay or Deny a Filed Claim

The insurer must acknowledge a filed claim within 14 days of its submission.⁵⁵ When requested in writing by the insured, the insurer must confirm the claim is either covered in full, partially covered, denied, or being investigated within 30 days of the insured providing a proof-of-loss statement.⁵⁶ Within 90 days of receiving notice of the initial, reopened, or supplemental claim, the insurer must either pay the claim in full, pay a portion of the claim, or deny the claim.⁵⁷

⁵⁰ Section 627.702, F.S.

⁵¹ *Florida Farm Bureau Cas. Ins. Co. v. Cox*, 967 So. 2d 815, 818 (Fla. 2007).

⁵² Section 627.702(1)(a), F.S.

⁵³ Section 627.702(1)(b), F.S.

⁵⁴ Section 95.11(2)(e), F.S.

⁵⁵ Section 627.70131(1)(a), F.S.

⁵⁶ Section 627.7142, F.S.

⁵⁷ Section 627.70131(5)(a), F.S.

Statutory and Common Law Bad Faith

Florida's bad faith law and jurisprudence were designed to hold insurers accountable for failing to fulfill their contractual obligation to indemnify the insured or beneficiary on a valid claim.⁵⁸ Florida recognizes two distinct bad faith causes of action that may be initiated against an insurer. In the first, s. 624.155, F.S., provides first-party and third-party statutory bad faith causes of action against an insurer. Here, bad faith is statutorily defined as the commission of any of the following acts by the insurer:

- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured with due regard for her or his interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle the claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.⁵⁹

The second recognized bad faith cause of action provides a third-party common law cause of action when an insurer fails in good faith to settle a third party's claim against the insurer within policy limits and exposes the insured to liability in excess of his or her insurance coverage.⁶⁰ Florida courts do not recognize a common law first-party bad faith causes of action by the insured against its own insurer.⁶¹ Most property insurance claims are first-party claims⁶², thus bad faith actions on such claims may proceed only pursuant to s. 624.155, F.S.

Presuit Notice to Initiate Litigation

As a condition precedent to bringing a bad faith cause of action under s. 624.155, F.S., the insured must have provided the insurer and the Department of Financial Services at least 60 days written notice of the alleged violation.⁶³ The civil remedy notice must specify the following information:

- The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated;
- The facts and circumstance giving rise to the violation;
- The name of any individual involved in the violation;
- A reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third-party claimant, she or he shall not be required to reference the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request; and

⁵⁸ *Harvey v. GEICO General Insurance Company*, 251 So.3d 1, 6, (Fla. 2018)(quoting *Berges v. Infinity Insurance Company*, 896 So.2d 665 at 682).

⁵⁹ Section 624.155(1)(b)(1)-(3), F.S.

⁶⁰ *Opperman v. Nationwide Mutual Fire Insurance Company*, 515 So.2d 263, 265 (Fla. 5th DCA 1987).

⁶¹ *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 58-59 (Fla. 1995).

⁶² Homeowners insurance provides liability coverage, thus third-party litigation may occur under a property insurance policy.

⁶³ Section 624.155(3), F.S.

- A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized under s. 624.155, F.S.⁶⁴

The 60-day window contemplated under s. 624.155, F.S., provides insurers with a final opportunity to comply with their claim-handling obligations when a good-faith decision by the insurer would indicate that contractual benefits are owed.⁶⁵

By contrast, as a condition precedent to bring a third-party cause of action to enforce an assignment agreement against the insurer under s. 627.7152(9), F.S., the assignee must provide the named insured and the assignor a written notice of intent to initiate litigation, delivered at least 10 business days before filing suit, but not before the insurer has made a determination of coverage determination pursuant to s. 627.70131, F.S.⁶⁶ The notice must also include a detailed written invoice or estimate of services that includes itemized information and proof work was performed in accordance with accepted industry standards. If required by the insurer, the assignee must further submit to reasonably necessary examinations under oath and recorded statements administered by the insurer,⁶⁷ and participate in appraisal or other alternative dispute resolution methods in accordance with the policy terms,⁶⁸ before bringing a third-party cause of action to enforce an assignment agreement.

Response by the Insurer

If the insurer fails to respond to a civil remedy notice under s. 624.155, F.S., within the 60-day window, there is presumption of bad faith sufficient to shift the burden to the insurer to show why it did not respond.⁶⁹ No action shall lie if the insurer responds within 60 days of receipt of the civil remedy notice by either paying damages or correcting the circumstances giving rise to the claim.⁷⁰

By contrast, the insurer must respond to a third-party cause of action to enforce an assignment agreement under s. 627.7152, F.S., within 10 business days of receipt of the presuit notice to initiate litigation by making a presuit settlement offer or requiring the assignee to participate in appraisal or other alternative dispute resolution method.⁷¹

Offer of Settlement

Under Florida law, an insurer must investigate the facts, give fair consideration to a settlement offer that is not unreasonable under the facts, and settle, if possible, where a reasonably prudent person, faced with the prospect of paying the total recovery, would do so.⁷² In considering

⁶⁴ Section 624.155(3)(b)(1)-(5), F.S.

⁶⁵ See *Talat Enterprises, Inc.*, 753 So.2d at 1284.

⁶⁶ Section 627.70131, F.S., requires an insurer to make a coverage determination and pay or deny a claim within 90 days of receipt of the claim

⁶⁷ Section 627.7152(4)(d), F.S.

⁶⁸ Section 627.7152(4)(e), F.S.

⁶⁹ *Fridman v. Safeco Ins. Co. of Illinois*, 185 So.3d 1214, 1220, (Fla. 2016); *Imhof v. Nationwide Mut. Ins. Co.*, 643 So.2d 617, 619 (Fla 1994).

⁷⁰ *Id.*

⁷¹ Section 627.155(9)(b), F.S.

⁷² *Boston Old Colony Insurance Company v. Gutierrez*, 386 So.2d 783, 785 (Fla. 1980).

whether the insurer has given fair consideration to a settlement offer that is not unreasonable under the facts, Florida courts look to whether there was a realistic opportunity for settlement.⁷³

III. Effect of Proposed Changes:

Section 1 amends s. 627.428., F.S., to create a strong presumption that the lodestar fee is a sufficient and reasonable award of attorney fees in a claim arising under a property insurance policy. This presumption is rebuttable only in rare and exceptional circumstances by evidence that competent counsel could not be retained in a reasonable manner. Only when such evidence is presented to the court could a contingency fee multiplier be applied in property insurance litigation.

The lodestar amount, in the context of attorney fees awarded under s. 627.428, F.S., is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate for the services of the attorney of the insured or beneficiary.

Section 2 amends s. 627.7011, F.S., to provide for the use of a roof surface reimbursement schedule to limit coverage in a personal lines residential property insurance policy. The roof surface reimbursement schedule must provide for full replacement coverage for any roof surface type less than 10 years old. For roofs 10 years old or older, the roof surface reimbursement schedule must provide for repair, replacement, and installation based on the annual age of the roof surface type, subject to the following minimum reimbursement amounts, unless otherwise actuarially justified and demonstrated to the Office of Insurance Regulation (OIR):

- 70 percent for a metal roof type;
- 40 percent for a concrete tile and clay tile roof type;
- 40 percent for a wood shake and wood shingle roof type;
- 25 percent for all other roof types

Roof surface reimbursement schedules must allow for actuarially sound rate standards⁷⁴ under Florida's Rating Law,⁷⁵ be subject to OIR approval, be furnished along with the personal lines residential property insurance policy at the time of issuance or renewal, and include the following notice in no smaller than 12-point uppercase and boldfaced type:

PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SERVICE REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING TO THE SCHEDULE BELOW. BE ADVISED THIS MAY RESULT IN YOUR HAVING TO PAY SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR ROOF. PLEASE DISCUSS WITH YOUR INSURANCE AGENT.

⁷³ *Barry v. GEICO General Insurance Company*, 938 So.2d 613, 618 (Fla. 4th DCA 2006).

⁷⁴ See ch. 627.062, F.S.

⁷⁵ See ch. 627 pt. I, F.S.

The section further provides that, in the event of a total loss caused by a covered peril, actual cash value coverage as determined by the roof surface reimbursement schedule does not apply. The insurer's liability will instead be for the amount of the insured property as specified in the personal lines residential property insurance policy, as provided for in Florida's Valued Policy Law.⁷⁶

Currently, insurers may currently offer homeowner's insurance policies with roof surface reimbursement schedules approved by the Office of Insurance Regulation, but must also offer policies that provide replacement cost reimbursement. This section removes the requirement to offer replacement cost reimbursement for roofs that are at least 10-years-old.

Section 3 amends s. 627.70132, F.S., to require that a claim, supplemental claim, or reopened claim under a property insurance policy must be provided to the insurer within 2 years of the date of the loss.

Section 4 makes a technical change to s. 627.7015(9), F.S., to conform to the revision of s. 627.70132, F.S.

Section 5 creates s. 627.70152, F.S., to providing several provisions governing lawsuits arising under a property insurance policy.

Application

The section defines the scope of the section as applicable to all first-party and third-party actions brought under a property insurance policy, including an assignee.

Definitions

The bill defines:

- "Assignee" to mean a person who is assigned post-loss benefits through an assignment agreement, by cross-reference to s. 627.752, F.S.
- "Claimant" to mean an insured or assignee who is filing suit under a property insurance policy.
- "Demand" to mean the specific amount alleged to be owed by the insurer to the claimant under the property insurance policy.
- "Demand-judgment quotient" to mean the quotient obtained by dividing the judgment by the demand.
- "Incurred attorney fees" to mean the total amount of attorney fees supported by sufficient evidence and determined by the court to have been incurred by the claimant in bringing the action.
- "Judgment" to mean damages recovered, if any, but does not include any amount awarded for attorney fees, costs, or interest.

⁷⁶ See s. 627.702, F.S.

Presuit Notice Requirements

The claimant must provide the insurer with a written notice of intent to initiate litigation at least 60 days before filing suit under the property insurance policy. Additionally, the notice may not be served before the insurer has made a coverage determination pursuant to s. 627.70131, F.S.⁷⁷

The notice must specify:

- That it is being provided pursuant to this section;
- The alleged acts or omissions of the insurance insurer giving rise to the action;
- The demand amount;
- The amount of the claimant's attorney fees, calculated as the product of hours worked multiplied by a reasonable hourly rate; and,
- If provided by an attorney or other representative, whether a copy of the notice was provided to the claimant.

An assignee bringing a third-party claim must also comply with s. 627.7152, F.S., pertaining to assignment agreements. Concurrent with the notice of intent to initiate litigation, an assignee must also provide the named insured, insurer, and assignor a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the case of work performed, proof that the work has been performed in accordance with accepted industry standards.⁷⁸

The claimant must provide the insurer with notice of intent to initiate litigation within the 5-year statute of limitations for property insurance contracts pursuant to s. 95.11, F.S.

Following the insurer's receipt of claimant's notice of intent to initiate litigation, a court must dismiss without prejudice any action commenced by the insurer against the claimant before the expiration of the 60-day notice period.

Admissibility of Notice and Response

Notice and submissions provided pursuant to this section are admissible as evidence in a civil action or alternative dispute resolution proceeding; do not limit the evidence of attorney fees, damages, or loss which may be offer at trial; and do not relieve any obligation that insured or assignee has to give notice under another other provision of law.

Right to Inspect

The insurer may request to inspect, photograph, or evaluate the property that is the subject of the claim in a reasonable manner and at a reasonable time within 30 days of receipt of the notice of intent to initiate litigation. If reasonably possible, insurer must complete the inspection, photography, and evaluation within 60 days of receipt of the notice of intent to initiate litigation. The insurer must then fairly and promptly evaluate the claim after completing the inspection.

⁷⁷ Section 627.70131, F.S., requires an insurer to make a coverage determination and pay or deny a claim within 90 days of receipt of the claim.

⁷⁸ This is a current precondition to an assignee filing suit under s. 627.7152(9), F.S.

Abatement

The action shall be abated by a court order if the court finds the insurer timely filed a motion to abate proceedings within 30 days after the insurer filed an original answer and the insurer either did not receive property notice under this section or was not provided a reasonable opportunity to inspect, photograph, or evaluate the property in question after making such request.

The action is abated without a court order beginning on the 11th day after the motion to abate is filed if the insurer verifies it either did not receive property notice under this section or was not provided a reasonable opportunity to inspect, photograph, or evaluate the property in question after making such request, and the claimant does not controvert the motion by filed affidavit within 10 days after the insurer filed the motion.

Abatement continues for 60 days after the claimant provides notice of intent to initiate litigation against the insurer in compliance with this section or 50 days after the insurer completes the requested inspection, photography, or evaluation, whichever occurs later.

During abatement, a court may not compel participation in mediation pursuant to s. 627.7015, F.S., or neutral evaluation pursuant to s. 627.7074, F.S.

Attorney Fee Calculation

Attorney fees are awarded in actions arising under property insurance contracts according to the demand-judgment quotient. If the quotient of the judgment obtained by the claimant divided by the demand made by the claimant is:

- Greater than or equal to 0.8, the claimant is entitled to an award of attorney fees in the full amount.
- Equal to or greater than 0.2 but less than 0.8, the claimant is entitled to an award of attorney fees equal to the product of the incurred reasonable attorney fees multiplied by the demand-judgment quotient. For example, if the claimant obtains a judgment of \$20,000 and the claimant's demand was \$40,000, the demand-judgment quotient would be 0.5. If the claimant's reasonable attorney fees were \$10,000, the attorney fees paid by the insurer would be \$5,000, which is the product of multiplying \$10,000 in attorney fees by the demand judgment quotient of 0.5.
- Less than 0.2, the claimant is not entitled to an award of attorney fees.

Attorney fees may also be awarded under s. 57.105, F.S., pertaining to unsupported claims, defenses, or delays.

A court may deny an award of attorney fees to a claimant that did not comply with the section's presuit notice of intent to initiate litigation requirements, where the insurer pleads insufficient notice by the claimant within 30 days after the insurer files its original answer in court.

The court may order the claimant to pay the insurer's attorney fees resulting from an action previously voluntarily dismissed, if the claimant thereafter commences an action based on or including the same claim against the same insurer that was previously voluntarily dismissed.

Section 6 amends s. 627.7152, F.S., to delete conflicting provisions pertaining to the requirement that assignees provide notice of intent to initiate litigation and the award of attorney fees in property insurance litigation between assignees and insurers. Under the bill, these matters are now subject to Section 4 of the bill which creates s. 627.70152, F.S.

Section 7 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.428, 627.7011, 627.70132, 627.7015, and 627.7152.

This bill creates section 627.70152 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on February 2, 2021:

The committee substitute clarifies that, notwithstanding s. 627.7011(1)(a), F.S., an insurer may offer a roof surface reimbursement schedule that applies once a roof is at least 10-years old, without also being required to offer replacement cost coverage on a roof of such age.

The committee substitute makes additional technical and clarifying changes to the underlying bill.

B. Amendments:

None.



301036

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 61 - 69.

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

And the title is amended as follows:

Delete lines 3 - 8

and insert:

amending s.



232144

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 97
and insert:
PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SURFACE



977334

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2021	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (232144) (with title**
2 **amendment)**

3
4 Delete lines 70 - 112
5 and insert:

6 Section 2. Paragraph (f) is added to subsection (5) of
7 section 627.7011, Florida Statutes, to read:

8 627.7011 Homeowners' policies; offer of replacement cost
9 coverage and law and ordinance coverage.—

10 (5) This section does not:



977334

11 (f) Prohibit an insurer, notwithstanding paragraph (1)(a),
12 from providing limited coverage on a personal lines residential
13 property insurance policy by including a roof surface
14 reimbursement schedule. If included in the policy, a roof
15 surface reimbursement schedule must do all of the following:

16 1. Provide reimbursement for repair, replacement, and
17 installation based on the annual age of a roof surface type.

18 2. Provide full replacement coverage for any roof surface
19 type less than 10 years old.

20 3. Unless otherwise demonstrated to the office to be
21 actuarially justified, provide for reimbursement amounts of no
22 less than:

23 a. Seventy percent for a metal roof type.

24 b. Forty percent for a concrete tile and clay tile roof
25 type.

26 c. Forty percent for a wood shake and wood shingle roof
27 type.

28 d. Twenty-five percent for all other roof types.

29 4. Include at the top of the schedule, in bold type no
30 smaller than 12 points, the following statement:

31
32 "PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO
33 PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SURFACE
34 REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED
35 PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING
36 TO THE SCHEDULE BELOW. BE ADVISED THAT THIS MAY RESULT IN YOU
37 HAVING TO PAY SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR ROOF.
38 PLEASE DISCUSS WITH YOUR INSURANCE AGENT."
39



977334

40 5. Allow for all actuarially sound methods of s. 627.062 to
41 apply.

42 6. Be approved by the office.

43 7. Be provided to the insured with the policy documents at
44 issuance and renewal.

45
46 A roof surface reimbursement schedule may not be applied to a
47 roof if there is a total loss to a primary structure in
48 accordance with the valued policy law under s. 627.702 which is
49 caused by a covered peril.

50
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete line 16

54 and insert:

55 schedules; prohibiting application of a roof surface
56 reimbursement schedule



480584

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment to Substitute Amendment (977334)

Delete lines 29 - 44
and insert:

4. Include an acknowledgment form to be signed by the insured as acknowledgment that the roof surface schedule is a limitation of payment owed by the carrier. This signed form must be returned to the carrier and agent, if applicable, before a carrier may issue a policy with a roof surface reimbursement schedule. The acknowledgment form must be in bold type, no



480584

11 smaller than 14 points, and be worded exactly as follows:

12
13 "PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO
14 PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SURFACE
15 REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED
16 PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING
17 TO THE SCHEDULE BELOW. BE ADVISED THAT THIS MAY RESULT IN YOU
18 HAVING TO PAY, USING YOUR OWN SEPARATE FUNDS, SIGNIFICANT COSTS
19 TO REPAIR OR REPLACE YOUR ROOF WHICH YOUR INSURANCE CARRIER IS
20 NOT LIABLE FOR. THESE AMOUNTS ARE IN ADDITION TO YOUR
21 DEDUCTIBLE."

22
23 5. Include an acknowledgment form, completed by the
24 insurance carrier through the use of commercially accepted
25 means, which must be signed by the insured before issuance of
26 the policy. If the policy is issued before the roof attains 10
27 years of age, and the roof attains 10 years of age during the
28 policy period, a new acknowledgment form must be provided to the
29 insured at least 60 days before the renewal date. Failure to
30 provide the acknowledgment form at any time renders this policy
31 a replacement cost policy for the roof surface materials and not
32 subject to the roof surface schedule allowed by this section.
33 The acknowledgment form must be in bold type, no smaller than 14
34 points, and be worded exactly as follows:

35
36 "WARNING! YOUR ROOF SURFACE IS ESTIMATED TO COVER SQUARE
37 FEET OF YOUR HOME. YOUR ROOF IS CURRENTLY YEAR(S) OLD. IF
38 YOUR ROOF IS CURRENTLY 10 YEARS OLD OR OLDER, OR UPON YOUR ROOF
39 BECOMING 10 YEARS OLD OR OLDER, AND BECAUSE YOUR ROOF IS OF A



480584

40 TYPE OF MATERIAL, IN THE EVENT OF A COVERED LOSS THIS
41 POLICY WILL ONLY COVER PERCENT OF THE REPLACEMENT FOR YOUR
42 ROOF SURFACE MATERIALS. IF YOUR COVERED LOSS REQUIRES A FULL
43 ROOF REPLACEMENT, THE ESTIMATED COST OF THE ROOF SURFACE
44 MATERIALS ONLY IS \$..... IN THAT EVENT, YOUR POLICY WILL ONLY
45 COVER \$....., LEAVING YOU RESPONSIBLE FOR PAYMENT OF \$.... IN
46 ADDITION TO YOUR CHOSEN DEDUCTIBLE OF \$..... THESE ARE JUST
47 ESTIMATES AND THE ACTUAL AMOUNT COULD BE MORE THAN THE AMOUNT
48 STATED ABOVE."

49
50 6. Allow for actuarially sound methods of s. 627.062 to
51 apply.

52 7. Be approved by the office.

53 8. Be provided to the insured with the policy documents at
54 issuance and at least 60 days before each renewal.



214308

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 113 - 131.

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

And the title is amended as follows:

Delete lines 17 - 23

and insert:

under certain circumstances; amending s. 627.7015,



440438

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 153 - 317.

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

And the title is amended as follows:

Delete lines 25 - 44

and insert:

act; amending s. 627.7152, F.S.; deleting



590314

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/02/2021	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**

2

3 Delete lines 318 - 394.

4

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

6 And the title is amended as follows:

7 Delete lines 44 - 56

8 and insert:

9 circumstances;



534640

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 93 - 108
and insert:

4. Include an acknowledgment form to be signed by the insured as acknowledgment that the roof surface schedule is a limitation of payment owed by the carrier. This signed form must be returned to the carrier and agent, if applicable, before a carrier may issue a policy with a roof surface reimbursement schedule. The acknowledgment form must be in bold type, no



534640

11 smaller than 14 points, and be worded exactly as follows:

12
13 "PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO
14 PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SURFACE
15 REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED
16 PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING
17 TO THE SCHEDULE BELOW. BE ADVISED THAT THIS MAY RESULT IN YOU
18 HAVING TO PAY, USING YOUR OWN SEPARATE FUNDS, SIGNIFICANT COSTS
19 TO REPAIR OR REPLACE YOUR ROOF WHICH YOUR INSURANCE CARRIER IS
20 NOT LIABLE FOR. THESE AMOUNTS ARE IN ADDITION TO YOUR
21 DEDUCTIBLE."

22
23 5. Include an acknowledgment form, completed by the
24 insurance carrier through the use of commercially accepted
25 means, which must be signed by the insured before issuance of
26 the policy. If the policy is issued before the roof attains 10
27 years of age, and the roof attains 10 years of age during the
28 policy period, a new acknowledgment form must be provided to the
29 insured at least 60 days before the renewal date. Failure to
30 provide the acknowledgment form at any time renders this policy
31 a replacement cost policy for the roof surface materials and not
32 subject to the roof surface schedule allowed by this section.
33 The acknowledgment form must be in bold type, no smaller than 14
34 points, and be worded exactly as follows:

35
36 "WARNING! YOUR ROOF SURFACE IS ESTIMATED TO COVER SQUARE
37 FEET OF YOUR HOME. YOUR ROOF IS CURRENTLY YEAR(S) OLD. IF
38 YOUR ROOF IS CURRENTLY 10 YEARS OLD OR OLDER, OR UPON YOUR ROOF
39 BECOMING 10 YEARS OLD OR OLDER, AND BECAUSE YOUR ROOF IS OF A



534640

40 TYPE OF MATERIAL, IN THE EVENT OF A COVERED LOSS THIS
41 POLICY WILL ONLY COVERPERCENT OF THE REPLACEMENT FOR YOUR
42 ROOF SURFACE MATERIALS. IF YOUR COVERED LOSS REQUIRES A FULL
43 ROOF REPLACEMENT, THE ESTIMATED COST OF THE ROOF SURFACE
44 MATERIALS ONLY IS \$..... IN THAT EVENT, YOUR POLICY WILL ONLY
45 COVER \$....., LEAVING YOU RESPONSIBLE FOR PAYMENT OF \$.... IN
46 ADDITION TO YOUR CHOSEN DEDUCTIBLE OF \$..... THESE ARE JUST
47 ESTIMATES AND THE ACTUAL AMOUNT COULD BE MORE THAN THE AMOUNT
48 STATED ABOVE."

49
50 6. Allow for actuarially sound methods of s. 627.062 to
51 apply.

52 7. Be approved by the office.

53 8. Be provided to the insured with the policy documents at
54 issuance and at least 60 days before each renewal.

By Senator Boyd

21-00411C-21

202176__

1 A bill to be entitled
 2 An act relating to residential property insurance;
 3 amending s. 627.428, F.S.; providing that, for certain
 4 attorney fees awarded for claims arising under
 5 property insurance policies, a strong presumption is
 6 created that a lodestar fee is sufficient and
 7 reasonable; providing that such presumption may be
 8 rebutted only under certain circumstances; amending s.
 9 627.7011, F.S.; providing that certain provisions
 10 relating to homeowners' policies, offers of
 11 replacement cost coverage, and offers of law and
 12 ordinance coverage do not prohibit insurers from
 13 providing specified property insurance policies by
 14 including roof surface reimbursement schedules;
 15 providing requirements for roof surface reimbursement
 16 schedules; prohibiting cash value coverage for roofs
 17 under certain circumstances; amending s. 627.70132,
 18 F.S.; revising property insurance coverages for which
 19 a notice of claim must be given to the insurer within
 20 a specified timeframe; revising the timeframe for
 21 providing notices of property insurance claims;
 22 revising the definitions of the terms "supplemental
 23 claim" and "reopened claim"; amending s. 627.7015,
 24 F.S.; conforming a provision to changes made by the
 25 act; creating s. 627.70152, F.S.; providing
 26 applicability; defining terms; requiring notice of
 27 intent to initiate litigation; specifying requirements
 28 for such notice; specifying an assignee's presuit
 29 obligations; specifying the timeframe within which a

Page 1 of 14

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21-00411C-21

202176__

30 notice of intent to initiate litigation must be
 31 served; requiring dismissal of certain actions under
 32 specified circumstances; specifying the admissibility
 33 of certain evidence; providing construction;
 34 authorizing an insurer to request to inspect,
 35 photograph, or evaluate certain property; specifying
 36 requirements for such inspections, photographs, and
 37 evaluations; authorizing motions to abate suits under
 38 property insurance policies; specifying conditions for
 39 abatement; providing for an award of attorney fees for
 40 certain claims under specified circumstances;
 41 providing for an award of attorney fees following a
 42 voluntary dismissal under certain circumstances;
 43 requiring the court to stay proceedings under certain
 44 circumstances; amending s. 627.7152, F.S.; deleting
 45 definitions; deleting a requirement for a notice of
 46 intent to initiate litigation; deleting requirements
 47 for such notice; deleting a requirement for a written
 48 response to the notice of intent to initiate
 49 litigation; deleting requirements for such response;
 50 deleting a provision related to an award of reasonable
 51 attorney fees and costs for certain claims arising
 52 under an assignment agreement; deleting a provision
 53 related to an award of reasonable attorney fees and
 54 costs following a voluntary dismissal under certain
 55 circumstances; deleting a requirement for the court to
 56 stay proceedings under certain circumstances;
 57 providing an effective date.
 58

Page 2 of 14

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21-00411C-21

202176__

59 Be It Enacted by the Legislature of the State of Florida:

60
61 Section 1. Subsection (4) is added to section 627.428,
62 Florida Statutes, to read:

63 627.428 Attorney fees.—

64 (4) In an award of attorney fees under this section for a
65 claim arising under a property insurance policy, a strong
66 presumption is created that a lodestar fee is sufficient and
67 reasonable. Such presumption may be rebutted only in a rare and
68 exceptional circumstance with evidence that competent counsel
69 could not be retained in a reasonable manner.

70 Section 2. Paragraph (f) is added to subsection (5) of
71 section 627.7011, Florida Statutes, to read:

72 627.7011 Homeowners' policies; offer of replacement cost
73 coverage and law and ordinance coverage.—

74 (5) This section does not:

75 (f) Prohibit an insurer from providing limited coverage on
76 a personal lines residential property insurance policy by
77 including a roof surface reimbursement schedule. If included in
78 the policy, a roof surface reimbursement schedule must do all of
79 the following:

80 1. Provide reimbursement for repair, replacement, and
81 installation based on the annual age of a roof surface type.

82 2. Provide full replacement coverage for any roof surface
83 type less than 10 years old.

84 3. Unless otherwise demonstrated to the office to be
85 actuarially justified, provide for reimbursement amounts of no
86 less than:

87 a. Seventy percent for a metal roof type.

Page 3 of 14

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21-00411C-21

202176__

88 b. Forty percent for a concrete tile and clay tile roof
89 type.

90 c. Forty percent for a wood shake and wood shingle roof
91 type.

92 d. Twenty-five percent for all other roof types.

93 4. Include at the top of the schedule, in bold type no
94 smaller than 12 points, the following statement:

95
96 "PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO
97 PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SERVICE
98 REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED
99 PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING
100 TO THE SCHEDULE BELOW. BE ADVISED THAT THIS MAY RESULT IN YOU
101 HAVING TO PAY SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR ROOF.
102 PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

103
104 5. Allow for all actuarially sound methods of s. 627.062 to
105 apply.

106 6. Be approved by the office.

107 7. Be provided to the insured with the policy documents at
108 issuance and renewal.

109
110 Cash value coverage may not apply to a roof if there is a total
111 loss to a primary structure in accordance with the valued policy
112 law under s. 627.702 which is caused by a covered peril.

113 Section 3. Section 627.70132, Florida Statutes, is amended
114 to read:

115 627.70132 Notice of property insurance windstorm or
116 hurricane claim.—A claim, supplemental claim, or reopened claim

Page 4 of 14

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21-00411C-21

202176__

117 under an insurance policy that provides property insurance, as
 118 defined in s. 624.604, ~~for loss or damage caused by the peril of~~
 119 ~~windstorm or hurricane~~ is barred unless notice of the claim,
 120 supplemental claim, or reopened claim ~~is was~~ given to the
 121 insurer in accordance with the terms of the policy within 2
 122 ~~years 3 years~~ after the date of loss ~~hurricane first made~~
 123 ~~landfall or the windstorm caused the covered damage~~. For
 124 purposes of this section, the term "supplemental claim" or
 125 "reopened claim" means any additional claim for recovery from
 126 the insurer for losses ~~from the same hurricane or windstorm~~
 127 ~~which~~ the insurer has previously adjusted pursuant to the
 128 initial claim. This section does not affect any applicable
 129 limitation on civil actions provided in s. 95.11 for claims,
 130 supplemental claims, or reopened claims timely filed under this
 131 section.

132 Section 4. Subsection (9) of section 627.7015, Florida
 133 Statutes, is amended to read:

134 627.7015 Alternative procedure for resolution of disputed
 135 property insurance claims.—

136 (9) For purposes of this section, the term "claim" refers
 137 to any dispute between an insurer and a policyholder relating to
 138 a material issue of fact other than a dispute:

139 (a) With respect to which the insurer has a reasonable
 140 basis to suspect fraud;

141 (b) When, based on agreed-upon facts as to the cause of
 142 loss, there is no coverage under the policy;

143 (c) With respect to which the insurer has a reasonable
 144 basis to believe that the policyholder has intentionally made a
 145 material misrepresentation of fact which is relevant to the

21-00411C-21

202176__

146 claim, and the entire request for payment of a loss has been
 147 denied on the basis of the material misrepresentation;

148 (d) With respect to which the amount in controversy is less
 149 than \$500, unless the parties agree to mediate a dispute
 150 involving a lesser amount; or

151 (e) With respect to a ~~windstorm or hurricane~~ loss that does
 152 not comply with s. 627.70132.

153 Section 5. Section 627.70152, Florida Statutes, is created
 154 to read:

155 627.70152 Suits arising under a property insurance policy.—

156 (1) APPLICATION.—This section applies to all suits under a
 157 property insurance policy, including actions brought by an
 158 assignee.

159 (2) DEFINITIONS.—As used in this section, the term:

160 (a) "Assignee" has the same meaning as in s. 627.7152.

161 (b) "Claimant" means an insured or assignee who is filing
 162 suit under a property insurance policy.

163 (c) "Demand" means the specific amount alleged to be owed
 164 by the insurer to the claimant under the property insurance
 165 policy.

166 (d) "Demand-judgment quotient" means the quotient obtained
 167 by dividing the judgment by the demand.

168 (e) "Incurred attorney fees" means the total amount of
 169 attorney fees supported by sufficient evidence and determined by
 170 the court to have been incurred by the claimant in bringing the
 171 action.

172 (f) "Judgment" means damages recovered, if any, but does
 173 not include any amount awarded for attorney fees, costs, or
 174 interest.

21-00411C-21

202176__

175 (3) NOTICE.—

176 (a) As a condition precedent to filing a suit under a
 177 property insurance policy, a claimant must provide the insurer a
 178 written notice of intent to initiate litigation in accordance
 179 with this section. Such notice must be served by certified mail,
 180 return receipt requested, or electronic delivery at least 60
 181 days before filing suit. However, such notice may not be served
 182 before the insurer has made a determination of coverage under s.
 183 627.70131. An attorney or other representative of the claimant
 184 who provides such notice must provide a copy of the notice to
 185 the claimant. The notice and any copy must specify:

186 1. That the notice is being provided pursuant to this
 187 section;

188 2. The alleged acts or omissions of the insurer giving rise
 189 to the action;

190 3. The demand;

191 4. The amount of reasonable and necessary attorney fees
 192 incurred by the claimant, to be calculated by multiplying the
 193 number of hours actually worked on the claim as of the date of
 194 the notice by the claimant's attorney by a reasonable hourly
 195 rate; and

196 5. If provided by an attorney or other representative, that
 197 a copy of the notice was provided to the claimant.

198 (b) As a precondition to filing suit, an assignee also
 199 must:

200 1. Comply with s. 627.7152; and

201 2. Concurrent with the notice, provide the named insured,
 202 the insurer, and the assignor, if not the named insured, a
 203 detailed written invoice or estimate of services, including

Page 7 of 14

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21-00411C-21

202176__

204 itemized information on equipment, materials, and supplies; the
 205 number of labor hours; and, in the case of work performed, proof
 206 that the work has been performed in accordance with accepted
 207 industry standards.

208 (c) A notice of intent to initiate litigation must be
 209 served within the time limits provided in s. 95.11 and is not
 210 required if the action is a counterclaim. Service of a notice
 211 tolls the time limits provided in s. 95.11 for 60 days if such
 212 time limits will expire before the end of the 60-day notice
 213 period.

214 (d) A court must dismiss without prejudice any action
 215 relating to a claim for which a notice of intent to initiate
 216 litigation is given as required by this subsection if such
 217 action is commenced before the expiration of the 60-day notice
 218 period, is brought by an insurer to whom notice was given, and
 219 is against the claimant giving notice.

220 (4) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
 221 provided pursuant to subsection (3) and the submissions provided
 222 pursuant to subparagraph (3) (b)2.:

223 (a) Are admissible as evidence in a civil action or an
 224 alternative dispute resolution proceeding relating to the claim
 225 for which the notice is given;

226 (b) Do not limit the evidence of attorney fees, damages, or
 227 loss which may be offered at trial; and

228 (c) Do not relieve any obligation that an insured or
 229 assignee has to give notice under any other provision of law.

230 (5) INSPECTION.—Within 30 days after an insurer receives
 231 notice pursuant to subsection (3), the insurer may send a
 232 written request to the insured or assignee to inspect,

Page 8 of 14

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21-00411C-21

202176__

233 photograph, or evaluate, in a reasonable manner and at a
 234 reasonable time, the property that is the subject of the claim.
 235 If reasonably possible, the insurer must complete the
 236 inspection, photography, and evaluation not later than 60 days
 237 after the insurer receives the presuit notice. After completing
 238 the inspection, the insurer must conduct an internal review by a
 239 duly-qualified claims adjuster to fairly and promptly evaluate
 240 the claim. This section does not limit any right provided in a
 241 property insurance policy or contract to inspect property.

242 (6) ABATEMENT.—

243 (a) In addition to taking any other action allowed by an
 244 insurance policy or a contract or by any other provision of law,
 245 an insurer may file a motion to abate a suit under a property
 246 insurance policy if the insurer:

247 1. Files the motion no later than the 30th day after the
 248 insurer filed an original answer in the court in which the
 249 action is pending; and

250 2. Did not receive notice required pursuant to subsection
 251 (3) or requested an inspection pursuant to subsection (5) but
 252 was not provided a reasonable opportunity to inspect,
 253 photograph, or evaluate the property that is the subject of the
 254 claim.

255 (b) The court shall abate the action if the court finds
 256 that the insurer did not receive the notice required by
 257 subsection (3) or requested an inspection pursuant to subsection
 258 (5) but was not provided a reasonable opportunity to inspect,
 259 photograph, or evaluate the property that is the subject of the
 260 claim.

261 (c) The action is abated without a court order beginning on

Page 9 of 14

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21-00411C-21

202176__

262 the 11th day after the motion to abate is filed if the motion to
 263 abate:

264 1. Is verified and states that the insurer did not receive
 265 the notice required by subsection (3) or requested an inspection
 266 pursuant to subsection (5) but was not provided a reasonable
 267 opportunity to inspect, photograph, or evaluate the property
 268 that is the subject of the claim; and

269 2. Is not controverted by an affidavit filed by the insured
 270 or assignee within 10 days after the date the plea in abatement
 271 is filed.

272 (d) An affidavit filed pursuant to subparagraph (c)2. must
 273 include as an attachment a copy of the written notice sent
 274 pursuant to subsection (3) and state the date on which such
 275 notice was given.

276 (e) Abatement under this subsection continues until the
 277 later of:

278 1. Sixty days after the claimant provides notice to the
 279 insurer in compliance with subsection (3); or

280 2. Fifty days after the insurer completes the requested
 281 inspection, photographing, or evaluating of the property
 282 pursuant to subsection (5).

283 (f) If an action is abated pursuant to this subsection, a
 284 court may not compel during the abatement period participation
 285 in mediation pursuant to s. 627.7015 or neutral evaluation
 286 pursuant to s. 627.7074.

287 (7) ATTORNEY FEES.—

288 (a) Notwithstanding any other provision of law, in a suit
 289 arising under a residential or commercial property insurance
 290 policy, attorney fees and costs may be recovered by a claimant

Page 10 of 14

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21-00411C-21

202176__

291 only pursuant to s. 57.105 and this subsection. Attorney fees
 292 may be awarded to a claimant under this section as follows:
 293 1. If the demand-judgment quotient is greater than or equal
 294 to 0.8, the full amount of incurred attorney fees may be
 295 awarded.
 296 2. If the demand-judgment quotient is equal to or greater
 297 than 0.2 but less than 0.8, the attorney fees must equal the
 298 product of multiplying the incurred attorney fees by the demand-
 299 judgment quotient.
 300 3. If the demand-judgment quotient is less than 0.2,
 301 attorney fees may not be awarded.
 302 (b) If an insurer pleads and proves that it did not receive
 303 notice that complies with subsection (3) and files such pleading
 304 no later than the 30th day after the insurer files an original
 305 answer in the court in which the action is pending, the court
 306 may not award to the claimant any incurred attorney fees for
 307 services rendered after the date on which the insurer files such
 308 pleading with the court.
 309 (c) If a claimant commences an action in any court of this
 310 state based upon or including the same claim against the same
 311 adverse party that such insured or assignee has previously
 312 voluntarily dismissed in a court of this state, the court may
 313 order the insured or assignee to pay the attorney fees and costs
 314 of the adverse party resulting from the action previously
 315 voluntarily dismissed. The court shall stay the proceedings in
 316 the subsequent action until the insured or assignee has complied
 317 with the order.
 318 Section 6. Paragraphs (d) through (g) of subsection (1) and
 319 subsections (9) and (10) of section 627.7152, Florida Statutes,

Page 11 of 14

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21-00411C-21

202176__

320 are amended to read:
 321 627.7152 Assignment agreements.-
 322 (1) As used in this section, the term:
 323 ~~(d) "Disputed amount" means the difference between the~~
 324 ~~assignee's presuit settlement demand and the insurer's presuit~~
 325 ~~settlement offer.-~~
 326 ~~(e) "Judgment obtained" means damages recovered, if any,~~
 327 ~~but does not include any amount awarded for attorney fees,~~
 328 ~~costs, or interest.-~~
 329 ~~(f) "Presuit settlement demand" means the demand made by~~
 330 ~~the assignee in the written notice of intent to initiate~~
 331 ~~litigation as required by paragraph (9) (a).-~~
 332 ~~(g) "Presuit settlement offer" means the offer made by the~~
 333 ~~insurer in its written response to the notice of intent to~~
 334 ~~initiate litigation as required by paragraph (9) (b).-~~
 335 ~~(9) (a) An assignee must provide the named insured, insurer,~~
 336 ~~and the assignor, if not the named insured, with a written~~
 337 ~~notice of intent to initiate litigation before filing suit under~~
 338 ~~the policy. Such notice must be served by certified mail, return~~
 339 ~~receipt requested, or electronic delivery at least 10 business~~
 340 ~~days before filing suit, but may not be served before the~~
 341 ~~insurer has made a determination of coverage under s. 627.70131.~~
 342 ~~The notice must specify the damages in dispute, the amount~~
 343 ~~claimed, and a presuit settlement demand. Concurrent with the~~
 344 ~~notice, and as a precondition to filing suit, the assignee must~~
 345 ~~provide the named insured, insurer, and the assignor, if not the~~
 346 ~~named insured, a detailed written invoice or estimate of~~
 347 ~~services, including itemized information on equipment,~~
 348 ~~materials, and supplies; the number of labor hours; and, in the~~

Page 12 of 14

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21-00411C-21

202176__

349 case of work performed, proof that the work has been performed
350 in accordance with accepted industry standards.

351 ~~(b) An insurer must respond in writing to the notice within~~
352 ~~10 business days after receiving the notice specified in~~
353 ~~paragraph (a) by making a presuit settlement offer or requiring~~
354 ~~the assignee to participate in appraisal or other method of~~
355 ~~alternative dispute resolution under the policy. An insurer must~~
356 ~~have a procedure for the prompt investigation, review, and~~
357 ~~evaluation of the dispute stated in the notice and must~~
358 ~~investigate each claim contained in the notice in accordance~~
359 ~~with the Florida Insurance Code.~~

360 ~~(10) Notwithstanding any other provision of law, in a suit~~
361 ~~related to an assignment agreement for post loss claims arising~~
362 ~~under a residential or commercial property insurance policy,~~
363 ~~attorney fees and costs may be recovered by an assignee only~~
364 ~~under s. 57.105 and this subsection.~~

365 ~~(a) If the difference between the judgment obtained by the~~
366 ~~assignee and the presuit settlement offer is:~~

367 ~~1. Less than 25 percent of the disputed amount, the insurer~~
368 ~~is entitled to an award of reasonable attorney fees.~~

369 ~~2. At least 25 percent but less than 50 percent of the~~
370 ~~disputed amount, no party is entitled to an award of attorney~~
371 ~~fees.~~

372 ~~3. At least 50 percent of the disputed amount, the assignee~~
373 ~~is entitled to an award of reasonable attorney fees.~~

374 ~~(b) If the insurer fails to inspect the property or provide~~
375 ~~written or oral authorization for repairs within 7 calendar days~~
376 ~~after the first notice of loss, the insurer waives its right to~~
377 ~~an award of attorney fees under this subsection. If the failure~~

21-00411C-21

202176__

378 ~~to inspect the property or provide written or oral authorization~~
379 ~~for repairs is the result of an event for which the Governor had~~
380 ~~declared a state of emergency under s. 252.36, factors beyond~~
381 ~~the control of the insurer which reasonably prevented an~~
382 ~~inspection or written or oral authorization for repairs, or the~~
383 ~~named insured's failure or inability to allow an inspection of~~
384 ~~the property after a request by the insurer, the insurer does~~
385 ~~not waive its right to an award of attorney fees under this~~
386 ~~subsection.~~

387 ~~(c) If an assignee commences an action in any court of this~~
388 ~~state based upon or including the same claim against the same~~
389 ~~adverse party that such assignee has previously voluntarily~~
390 ~~dismissed in a court of this state, the court may order the~~
391 ~~assignee to pay the attorney fees and costs of the adverse party~~
392 ~~resulting from the action previously voluntarily dismissed. The~~
393 ~~court shall stay the proceedings in the subsequent action until~~
394 ~~the assignee has complied with the order.~~

395 Section 7. This act shall take effect July 1, 2021.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

232144; 977334

Amendment Barcode (if applicable)

Topic Property Insurance

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/2021
Meeting Date

SB74
Bill Number (if applicable)

480584
Amendment Barcode (if applicable)

Topic Insurance

Name Hillary Cassel

Job Title Attorney

Address 4000 Hollywood Blvd. Cassel Phone 954-589-5501

Hollywood FL 33021 Email hcassel@cassel.law
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Policyholders Cooperative

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

214308; 301036; 440438; 590314

Amendment Barcode (if applicable)

Topic Property Insurance

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

February 2, 2021

Meeting Date

76

Bill Number (if applicable)

214308

Amendment Barcode (if applicable)

Topic Property Insurance

Name RICHIE KIDWELL

Job Title OWNER, AIR QUALITY ASSESSORS

Address 911 W. MORSE BLVD

Phone 407-233-0493

Street

WINTER PARK FL

32789

City

State

Zip

Email richie@airqualityassessors.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing RESTORATION ASSOC. OF FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

214308

Amendment Barcode (if applicable)

Topic Property Insurance

Name Matthew Collett

Job Title Attorney

Address 4494 Southside Boulevard

Phone 904-330-7500

Street

Jacksonville

FL

32216

Email mcollett@collett-law.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

214308; 301036; 440438; 590314

Amendment Barcode (if applicable)

Topic Property Insurance

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

02.02.21

Meeting Date

76

Bill Number (if applicable)

301036

Amendment Barcode (if applicable)

Topic Residential Property Insurance

Name Steven Richardson

Job Title _____

Address 2873 Remington Cir

Street

Tallahassee

City

FL

State

32308

Zip

Phone (850) 518-1036

Email steven.richardson@csklegal.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Reform Institute

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

301036

Amendment Barcode (if applicable)

Topic Property Insurance

Name Matthew Collett

Job Title Attorney

Address 4494 Southside Boulevard

Phone 904-330-7500

Street

Jacksonville

FL

32216

Email mcollett@collett-law.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021
Meeting Date

SB 76
Bill Number (if applicable)
480584
Amendment Barcode (if applicable)

Topic Property Insurance

Name W. Clint Moore

Job Title Attorney

Address 205 E. Marks St.

Phone 407-212-7598

Street

Orlando

FL

32803

Email office@clintco.legal

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

February 2, 2021

Meeting Date

76

Bill Number (if applicable)

440438

Amendment Barcode (if applicable)

Topic Property Insurance

Name Matthew Landan

Job Title Attorney

Address 1200 N. Federal Hwy

Street

Phone 954-964-0900

Boca Raton FL

City

State

33432

Zip

Email MATTE@TheLandanLawGroup.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Landan Law Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

440438

Amendment Barcode (if applicable)

Topic INSURANCE

Name David Murray

Job Title Attorney

Address 901 W Swann Ave
Street

Phone 813-380-6107

Tampa FL 33606
City State Zip

Email dave@donohyandmurray.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FPC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/21
Meeting Date

SB 76
Bill Number (if applicable)
440438

Amendment Barcode (if applicable)

Topic Homeowner/Hurricane Michael

Name Joe Busby

Job Title Ret.

Address 4879 Magnolia Rd.

Phone 850 209-1313

Street

Marianna

FL

32448

Email joebusby@wfeca.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021
Meeting Date

SB76
Bill Number (if applicable)

534640
Amendment Barcode (if applicable)

Topic Insurance

Name Hillary Cassel

Job Title Attorney

Address 4000 Hollywood Blvd. Ste. 685-S
Street
Hollywood FL 33021
City State Zip

Phone Sel. 202. 5713

Email hcassel@cassel.law

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Policyholders Cooperative

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021
Meeting Date

76
Bill Number (if applicable)
214308; 301036; 440438; 590314

Amendment Barcode (if applicable)

Topic Property Insurance

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

214308; 301036; 440438; 590314

Amendment Barcode (if applicable)

Topic Property Insurance

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm Florida Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

534640

Amendment Barcode (if applicable)

Topic Property Insurance

Name W. Clint Moore

Job Title Attorney

Address 205 E. Marks St

Street

Orlando

City

FL

State

32803

Zip

Phone 407-212-7598

Email office@clintco.legal

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Scott Matiyow (Mat-e-o)

Job Title VP Legislative + Regulatory Affairs

Address 215 S. Monroe St suit 815 Phone 850-597-7425

Street

Tallahassee FL

32312

Email Scott.Matiyow@PIFF.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

FEB 2nd 2022

SB 76

Meeting Date

Bill Number (if applicable)

Topic

Residential Project Involvement

Amendment Barcode (if applicable)

Name

Dave Sendar (Sindan) Jordan Fee

Job Title

Concerned Senior Citizen

Address

Street

66 Wintergreen Dr

Phone

352 605 6597

City

Fruitland Park FL 34731

State

Zip

Email

gotfendave1955@gmail.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Self & my wife Sandi

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name W. Clint Moore

Job Title Attorney

Address 205 E. Marks St

Phone 407-212-7598

Street

Orlando

FL

32803

Email office@clintco.legal

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

Topic Residential Property Insurance

Amendment Barcode (if applicable)

Name Chris Dawson

Job Title Attorney and Government Consultant

Address 301 E. Pine Street, Suite 1400

Phone 407-843-8880

Street

Orlando

City

FL

State

32801

Zip

Email chris.dawson@gray-robinson.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Roofing and Sheet Metal Contractors Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

Topic Residential property Insurance

Amendment Barcode (if applicable)

Name Aaron Rosen

Job Title Mold Assessor / Remediator

Address 2801 West Lake Vista Circle

Phone 954 612 8586

Street

Davie

City

FL

State

33328

Zip

Email aaron0620@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Certified Mold free

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

Topic INSURANCE

Amendment Barcode (if applicable)

Name Paul Handerhan

Job Title Governmental Affairs

Address 120 South Monroe Street

Phone 561 704 0428

Street

Tallahassee FL 33023

Email PAUL@RAMBA CONSULTING.COM

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FAIR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

February 2, 2021

Meeting Date

76

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name Aaron Penn

Job Title Umpire & Appraiser

Address 1025 SW Martin Downs Blvd Ste 204

Phone 330-858-7761

Street

Palm City FL 34990

City

State

Zip

Email Penn.Aaron@outlook.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Cameron Claims Management

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

February 2, 2021

Meeting Date

76

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name Grant Rockett

Job Title Contractor/Homeowner

Address 803 A Harbor Blvd

Phone 334-663-6321

Street

Destin

FL

32541

City

State

Zip

Email Kirk10j@comcast.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

February 2, 2021

Meeting Date

76

Bill Number (if applicable)

~~XXXXXXXXXXXX~~

Amendment Barcode (if applicable)

Topic Property Insurance

Name NICHIE KIDWELL

Job Title OWNER, AIR QUALITY ASSESSORS

Address 941 W. MORSE BLVD

Phone 407-233-0493

Street
WINTER PARK FL 32789

Email nichie@airqualityassessors.com

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing RESTORATION ASSOC. OF FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name Chris Campione

Job Title Attorney

Address 3200 Emerson Street

Phone 904-990-8400

Street

Jacksonville

FL

32207

Email cc@campionelawpa.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida homeowners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name Matthew Collett

Job Title Attorney

Address 4494 Southside Boulevard

Phone 904-330-7500

Street

Jacksonville

FL

32216

Email mcollett@collett-law.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

Topic Homeowner/Hurricane Michael

Amendment Barcode (if applicable)

Name Joe Busby

Job Title Ret.

Address 4879 Magnolia Rd.

Phone 850 209-1313

Street

Marianna

FL

32448

Email joebusby@wfeca.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

Topic Amendment

Amendment Barcode (if applicable)

Name Grant R. Holt

Job Title CEO Apex Power

Address 803 A N. W. Blvd

Phone 734-665-6321

Deerfield FL
City State Zip

Email grantholt@apexpower.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Apex

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

February 2, 2021
Meeting Date

76
Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name MATTHEW LANDAN

Job Title ATTORNEY

Address 1200 N. FEDERAL HWY
Street

Phone 954-964-0900

BOCA RATON FL 33432
City State Zip

Email MatH@TheLandanLawGroup.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing THE LANDAN LAW GROUP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

02.02.21

Meeting Date

76

Bill Number (if applicable)

Topic Residential Property Insurance

Amendment Barcode (if applicable)

Name Steven Richardson

Job Title _____

Address 2873 Remington Green Cir

Phone (850) 518-1036

Street

Tallahassee

FL

32308

Email steven.richardson@csklegal.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Justice Reform Institute

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

²
2/21/21
Meeting Date

76
Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name BG Murphy

Job Title Director of Government Affairs

Address 3159 Shamrock St. South
Street

Phone 863-698-8820

Tallahassee FL 32309
City State Zip

Email bmurphy@faia.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Insurance Agents

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21

Meeting Date

710

Bill Number (if applicable)

Topic Property Insurance

Amendment Barcode (if applicable)

Name Christine Ashburn

Job Title Chief - Communications, Legislative & External Affairs

Address 2103 Maryland Circle Phone 513-3746

Street

Tallahassee FL 32303

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Citizens Property Insurance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21

Meeting Date

76

Bill Number (if applicable)

Topic Residential Property Insurance

Amendment Barcode (if applicable)

Name George Feijoo ("Fay-Jew")

Job Title Consoltant - Floridian Partners

Address 108 S. Monroe St.

Phone (305) 720-7099

Street

Tallahassee

FL

32301

City

State

Zip

Email grfeijoo@flapartners.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Insurance Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

SB 76

Bill Number (if applicable)

590314

Amendment Barcode (if applicable)

Topic Property Insurance

Name Chris Campione

Job Title Attorney

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Street

Jacksonville

City

FL

State

32207

Zip

Phone 904-990-8400

Email cc@campionelawpa.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida homeowners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/21
Meeting Date

76
Bill Number (if applicable)

Topic Residential Property Insurance

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior Policy Director

Address 136 S Bronough Street

Phone 850-521-1200

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/2/2021

Meeting Date

76

Bill Number (if applicable)

Topic Residential Property Insurance

Amendment Barcode (if applicable)

Name Doug Bell

Job Title _____

Address 119 S. Monroe St.

Phone 850-205-9000

Street

Tallahassee

FL

Email doug.bell@mhdfirm.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ASI / Progressive Insurance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21

Meeting Date

SB 76

Bill Number (if applicable)

Topic PROPERTY INSURANCE

Amendment Barcode (if applicable)

Name JIM MASSIE

Job Title ATTORNEY

Address 1975 FARMS ROAD
Street

Phone 850.933.2108

TALLAHASSEE, FL
City State Zip

Email JMASSIE41@AOL.CO

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing REINSURANCE ASSOCIATION OF AMERICA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

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B&I @ 3:30

**THE FLORIDA SENATE
APPEARANCE RECORD**

2/2/21

Meeting Date

76

Bill Number (if applicable)

Topic Residential Property Insurance

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 168

INTRODUCER: Banking and Insurance Committee and Senator Hooper

SUBJECT: Hurricane Loss Mitigation Program

DATE: February 3, 2021 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 168 extends until June 30, 2031, the Hurricane Loss Mitigation Program (HLMP) within the Department of Community Affairs (DCA) Division of Emergency Management (DEM). The HLMP funds programs that improve the wind resistance of residences and public hurricane shelters. The HLMP program operations are funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The HLMP and the associated \$10 million appropriation from the Florida Hurricane Catastrophe Fund are set to expire on June 30, 2021.

The bill takes effect upon becoming law.

II. Present Situation:

Hurricane Loss Mitigation Program

In 1999,¹ the Legislature created the Hurricane Loss Mitigation Program (HLMP) within the Department of Community Affairs (DCA) Division of Emergency Management (DEM),² for the purpose of funding programs for improving the wind resistance of residences and mobile homes. The HLMP can provide funding through loans, subsidies, grants, demonstration projects, and

¹ Chapter 99-305, L.O.F.

² In 2011, the Legislature transferred the DEM to the Executive Office of the Governor, where it presently resides. *See* Chapter 2011-142, L.O.F.

direct assistance. It also funds cooperative programs with local governments and the federal government designed to reduce hurricane losses or the costs of rebuilding after a disaster.

The HLMP is funded by an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund.³ Specifically, current law requires the funds to be used as follows:

- \$3 million must be directed toward retrofitting existing facilities used as public hurricane shelters. DEM must prioritize use of these funds for projects included in the annual Shelter Retrofit Report.⁴ DEM must similarly prioritize these funds to projects in regional planning council regions that have shelter deficits and to projects that maximize the use of state funds.⁵
- \$7 million must be directed toward programs that improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code; and other efforts to prevent or reduce losses or reduce the cost of building after a disaster.⁶

Of the \$7 million allocated to improve the wind resistance of residences and mobile homes, provide education regarding Florida Building Code cooperative programs, and to reduce the cost of rebuilding after a disaster:

- 50 percent (\$3.5 million) is directed to grant funding for governmental entities, nonprofit organization, and qualified for-profit organizations to improve the resiliency of residential, community, and government structures within their communities.
- 40 percent (\$2.8 million) must be directed to the Manufactured Housing and Mobile Home Mitigation and Enhancement Program (Mobile Home Tie-Down Program) for the purpose of mitigating future losses for mobile homes, and to inspect and improve tie-downs for mobile homes. The program is administered by Tallahassee Community College (TCC).⁷
- 10 percent (\$700,000) must be directed to the Florida International University (FIU) for hurricane research.⁸

On January 1 of each year, DEM submits an annual report⁹ and accounting of activities under the HLMP as well as an evaluation of the activities. The report must be submitted to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate. The Office of Insurance Regulation (OIR) must review the report and make recommendations to the insurance industry as deemed appropriate.¹⁰

The HLMP expires on June 30, 2021.¹¹

³ Section 215.559(1), F.S.

⁴ The Shelter Retrofit Report is prepared annually and separately submitted to the Governor and the Legislature. *See* Section 252.385, F.S.

⁵ Section 215.559(1)(b), F.S.

⁶ Section 215.559(1)(a), F.S.

⁷ Section 215.559(2), F.S.

⁸ Section 215.559(3), F.S.

⁹ Hurricane Loss Mitigation Reports reside on the DEM website: <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last accessed January 28, 2021).

¹⁰ Section 215.559(6), F.S.

¹¹ Section 215.559(7), F.S.

Mobile Home Mitigation and Enhancement Program (Mobile Home Tie-Down Program)

The Mobile Home Tie-Down Program operates as a constituent part of the HLMP for the purpose of mitigating future losses and inspecting and improving tie-downs for mobile homes built before 1999 to meet the current standards established in Rules 15C-1.0101 through 15C-1.0109, F.A.C. Mitigation under the Mobile Home Tie-Down Program includes problems associated with weakened trusses, studs, and other structural component caused by wood rot or termite damage; site-built additions, such as porches or carports; tie-down systems; and any additional issues deemed appropriate by TCC, the Federation of Manufactured Home Owners of Florida, the Florida Manufactured Housing Association, and the Department of Highway Safety and Motor Vehicles (DHSMV).¹²

The Mobile Home Tie-Down Program is funded by a direct \$2.8 million allocation under the HLMP to TCC, which serves as program administrator.¹³ The Mobile Home Tie-Down Program does not, and mobile homes are ineligible to, receive federal mitigation funds under Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation Grant, Building Resilient Infrastructure and Communities, or Hazard Mitigation Grant programs.

Since 1999, the Mobile Home Tie-Down Program has served over 40,000 mobile homes in over 275 mobile home communities.¹⁴ Activities during 2019-2020 fiscal year included 1,702 completed mobile homes in 14 mobile home communities.¹⁵ COVID-19 travel, inspection, and community access restrictions prevented the Mobile Home Tie-Down Program from expensing 100% of the allocated funds.¹⁶

Third party studies of the Mobile Home Tie-Down Program report improved wind resistance following participation in the program. In 2005, a FEMA Mitigation Branch Technical Services Division study of impacted mobile home communities during 2004 hurricane season reported 4 percent to 5 percent of inspected mobile homes with retrofitted tie-downs were substantially damaged.¹⁷ The same study reported the primary cause of damage to mobile homes was caused instead by roof failure associated with the destruction of carports and sunrooms not constructed to code.¹⁸

¹² Section 215.559(2)(b)1, F.S.

¹³ Section 215.559(2)(a), F.S.

¹⁴ Florida Housing Coalition, *Hurricane Member Update Webinar* (August 28, 2020), <https://www.flhousing.org/wp-content/uploads/2020/09/FHC-Hurricane-Member-Update-8-28-20.pdf> (last visited December 21, 2020).

¹⁵ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2019 Annual Report* (January 1, 2020), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited December 21, 2020).

¹⁶ *Id.* at note 14.

¹⁷ https://www.fema.gov/media-library-data/20130726-1711-25045-6495/third_party_analysis_of_manufactured_home_retrofit_tie_downs.pdf at p. 3

¹⁸ https://www.fema.gov/media-library-data/20130726-1711-25045-6495/third_party_analysis_of_manufactured_home_retrofit_tie_downs.pdf at p. 5

As of December 2020, the Mobile Home Tie-Down Program reported a current waiting list of seven years.¹⁹ TCC is not accepting new applications until the waiting list shortens to three years.²⁰

Program Audits

Several third party audits have made recommendations for improving the Mobile Home Tie-Down Program. FEMA's 2005 study, *Third Party Analysis of Manufactured Home Retrofit Tie Downs*, observed up to 90 percent of all original tie-down straps, and a significant percentage of retrofit tie-down straps, were loose, increasing the likelihood of rotation of the upper structure upon wind loading of the side and flexure of the entire structural system. The study recommended sizing of tie-down anchors according to soil probe tests during installation to reduce pullout.²¹

In 2016, the Florida Auditor General audited 3,033 DEM contracts between July 2013 and January 2015, for compliance with state law requiring the DEM to timely provide the public with access to state contract and grant financial information.²² The subsequent report recommended DEM enhance procedures to ensure that contract information is timely made public, citing 72 percent timeliness rates for contracts executed prior to July 2013 and 64 percent timeliness rates for contracts executed after July 2013, respectively.²³

Also in 2016, the Department of Financial Services Bureau of Auditing (Bureau) audited 10 DEM contracts and grants between January 2015 and December 2015, including the Mobile Tie-Down Program, as follow-up to its previous audit disclosing a contract deficiency rate of 95% and a management deficiency rate of 43%.²⁴ The Bureau determined the Mobile Home Tie-Down Program should be classified as "grant and aid," with future payments from DEM to TCC subject to a written agreement for services to include a clear scope of work, deliverables, financial consequences, and monitoring.²⁵

Fiscal Year 2016-2017 Adopted Recommendations and Program Improvements

Beginning in 2016-2017 fiscal year, DEM executed a written agreement for services with TCC for administering the Mobile Home Tie-Down Program, which included a clear scope of work,

¹⁹ Telephone conversation with Amy Bradbury, Director of Financial Planning and Sponsored Programs, Tallahassee Community College, in Tallahassee, Fla. (December 14, 2020).

²⁰ Tallahassee Community College, *Mobile Home Tie-Down Program*, <https://www.tcc.fl.edu/about/college/administrative-services/sponsored-programs/mobile-home-tie-down-program/> (last visited December 21, 2020).

²¹ Federal Emergency Management Agency, Mitigation Section, Technical Services Branch, *Third Party Analysis of Manufactured Home Retrofit Tie Downs* (June 2005), https://www.fema.gov/media-library-data/20130726-1711-25045-6495/third_party_analysis_of_manufactured_home_retrofit_tie_downs.pdf at p. 8. (last visited December 21, 2020).

²² See State of Florida Auditor General, *Operational Audit: Division of Emergency Management Contract and Grant Management and Prior Audit Follow-Up* (April 2016), https://flauditor.gov/pages/pdf_files/2016-188.pdf at p. 2. (last visited December 21, 2020).

²³ *Id.* at p. 3.

²⁴ *May 10, 2016 Letter from Department of Financial Services Bureau of Auditing to Division of Emergency Management Director Bryan Koon*, https://www.myfloridacfo.com/division/aa/Aud_Act/docs/DEM%20Report%20dtd%205-10-2016_Redacted.pdf (last visited December 16, 2020).

²⁵ *Id.* at p. 3.

deliverables, financial consequences, and monitoring. Other notable program changes that were adopted include:²⁶

- Payment of funds are subject to cost reimbursement procedures instead of an automatic draw.
- Quarterly submission of invoices and program reports to DEM.
- RFP open to multiple vendors.
- RFP requirement of licensed mobile home installers
- DEM monitoring of the program, including on-site visits and limited scope audits.
- Required pre-inspection process.
- Submission of reports to DEM identifying homes prior to mitigation.
- DHSMV audits of mobile home installers' post-inspection reports
- Removal of the percentage of participating homes within a community as a factor in serving a community.
- Participation by individual mobile homeowners and communities without an established HOA.

Florida Hurricane Catastrophe Fund (FHCF)

The FHCF is a tax-exempt²⁷ fund created in 1993²⁸ after Hurricane Andrew²⁹ as a form of mandatory reinsurance for residential property insurers. The FHCF is administered by the State Board of Administration (SBA)³⁰ and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent)³¹ of hurricane losses above the insurer's retention (deductible). The FHCF provides insurers an additional source of reinsurance that is less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. Because of the low cost of coverage from the FHCF, the fund acts to lower residential property insurance premiums for consumers.

All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF.³² The FHCF is authorized by statute to sell \$17 billion of mandatory layer coverage.³³ Each insurer that purchases coverage may receive up to its proportional share of the \$17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. Each insurer may select a reimbursement contract wherein the FHCF promises to

²⁶ Department of Financial Services, *Florida Accountability Contract Tracking System Grant Disbursement Information*, <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=310000&ContractId=D9042> (last visited December 21, 2020).

²⁷ Section 215.555(1)(f), F.S.

²⁸ Chapter 93-409, L.O.F.

²⁹ Ed Rappaport, *Preliminary Report, Hurricane Andrew* (updated Dec. 10, 1993; addendum Feb. 7, 2005), <https://www.nhc.noaa.gov/1992andrew.html>.

³⁰ State Board of Administration of Florida, *About the SBA*, <https://www.sbafla.com/fsb/> (last visited December 22, 2020).

³¹ Section 215.555(2)(e), F.S.

³² Section 215.555(4)(a), F.S.

³³ Section 215.555(4)(c)1., F.S.

reimburse the insurer for 45 percent, 75 percent, or 90 percent of covered losses, plus 10 percent³⁴ of the reimbursed losses for loss adjustment expenses.³⁵

The FHCF must charge insurers the actuarially indicated premium³⁶ for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.³⁷ The actuarially indicated premium is an amount determined by the principles of actuarial science to be adequate to pay current and future obligations and expenses of the fund.³⁸

When the moneys in the FHCF are or will be insufficient to cover losses, the law³⁹ authorizes the FHCF to issue revenue bonds funded by emergency assessments on all lines of insurance except medical malpractice and workers compensation.⁴⁰ Emergency assessments may be levied up to 6 percent of premium for losses attributable to any one contract year, and up to 10 percent of premium for aggregate losses from multiple years. The FHCF's broad-based assessment authority is one of the reasons the FHCF was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.⁴¹

Citizens Property Insurance Corporation (Citizens)

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.⁴² Citizens is not a private insurance company.⁴³ Citizens was statutorily created in 2002 when the Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors⁴⁴ that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoints two members to the board. Citizens is subject to regulation by the OIR.

³⁴ Section 215.555(4)(b)1., F.S.

³⁵ Loss adjustment expenses are costs incurred by insurers when investigating, adjusting, and processing a claim.

³⁶ Section 215.555(5)(a), F.S.

³⁷ See State Board of Administration, *Florida Commission on Hurricane Loss Methodology*, <https://www.sbafla.com/method/> (last visited December 22, 2020).

³⁸ Section 215.555(2)(a), F.S.

³⁹ Section 215.555(6), F.S.

⁴⁰ Section 215.555(6)(b), F.S.

⁴¹ The U.S. Internal Revenue Service has, by a Private Letter Ruling, authorized the FHCF to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, for 5 years until June 30, 2003. On May 28, 2008, the Internal Revenue Service issued a private letter ruling holding that the prior exemption, which was to expire on June 30, 2008, could continue to be relied upon on a permanent basis (on file with the Committee on Banking and Insurance).

⁴² Admitted market means insurance companies licensed to transact insurance in Florida.

⁴³ Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the OIR.

⁴⁴ The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives each appoint two members.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.⁴⁵ Assets may not be commingled or used to fund losses in another account.⁴⁶

- **The Personal Lines Account (PLA)** offers personal lines residential policies that provide comprehensive, multiperil coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided to homeowners, mobile homeowners, dwellings, tenants, and condominium unit owner's policies.
- **The Commercial Lines Account (CLA)** offers commercial lines residential and nonresidential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial nonresidential policies covering business properties.
- **The Coastal Account** offers personal residential, commercial residential, and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multiperil policies.⁴⁷

Citizens Insurance Rates

Citizens' rates for coverage are required to be actuarially sound and, except as otherwise provided in s. 627.351, F.S., are subject to the rate standards for property and casualty insurance in s. 627.062, F.S.⁴⁸ From 2007 until 2020, Citizens rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a "glide path" to impose annual rate increases up to a level that is actuarially sound. Citizens must implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.⁴⁹

Citizens Eligibility

Under current law, an applicant for residential insurance cannot buy insurance in Citizens if an admitted insurer in the private market offers the applicant insurance for a premium that does not

⁴⁵ The Personal Lines Account and the Commercial Lines Account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

⁴⁶ Section 627.351(6)(b)2b., F.S.

⁴⁷ In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account.

⁴⁸ Among the factors OIR considers when reviewing a rate filing is the degree of competition among the insurers for the risk insured, per s. 627.062(3)(b), F.S.

⁴⁹ Section 627.351(6)(n)6., F.S.

exceed the Citizens premium by 15 percent or more.⁵⁰ In addition, the coverage offered by the private insurer must be comparable to Citizens' coverage.

Current Citizens policyholders cannot renew a Citizens insurance policy if an insurer in the private market offers to insure the property at a premium equal to or less than the Citizens' renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the renewal premium eligibility requirement to apply.⁵¹

The Citizens policyholder eligibility clearinghouse program was established by the Legislature in 2013.⁵² Under the program, new and renewal policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens. For new policies applying with Citizens, any private market offer through the clearinghouse for similar coverage that is not greater than 15 percent of Citizens' rate makes the policy ineligible for coverage with Citizens. Additionally, a renewal Citizens policy that receives any private market offer through the clearinghouse for similar coverage that is equal to or less than Citizens' rate is ineligible for coverage with Citizens.

Mobile Home Coverage under Citizens

Florida law currently requires Citizens to offer coverage for mobile home dwellings with a minimum insured value of at least \$3,000,⁵³ limited to the primary dwelling and certain attached structures.⁵⁴ Such coverage must include attached screened enclosures, attached carports, and attached patios.⁵⁵ Losses to the mobile home dwelling are adjusted on the basis of actual cash value. The actual cash value of the mobile home is determined by subtracting depreciation from the estimated replacement cost.⁵⁶ Separate from its statutorily mandated mobile home coverage, Citizens automatically includes sinkhole loss coverage in such policies, except for wind-only policies.⁵⁷ Citizens also offers optional coverages for other structures not physically attached to the primary dwelling.⁵⁸ As of January 28, 2021, Citizens insures 70,585 mobile homes across Florida.⁵⁹

III. Effect of Proposed Changes:

Section 1 extends until June 30, 2031, the Hurricane Loss Mitigation Program (HLMP) within the Department of Community Affairs (DCA) Division of Emergency Management (DEM). The HLMP funds programs that improve the wind resistance of residences and public hurricane

⁵⁰ Section 627.351(6)(c)5., F.S.

⁵¹ Section 627.351(6)(c)5., F.S.

⁵² Section 10, ch. 2013-60, L.O.F.

⁵³ Section. 627.351(6)(c)(17), F.S.

⁵⁴ Citizens Property Insurance Corporation, *Citizens Mobile Home Policies: Types of Coverage* (August 2019), <https://www.citizensfla.com/documents/20702/31376/Mobile+Home+Policies+Coverage+Types/e61c3b40-50aa-4789-8508-51ad26ac3450> (last visited January 28, 2021).

⁵⁵ Section 627.351(6)(c)(17), F.S.

⁵⁶ See note 55.

⁵⁷ See note 55.

⁵⁸ *Id.*

⁵⁹ Email from Candace Bunker, Director of Legislative and Cabinet Affairs, Citizens Property Insurance Corporation, to Florida Senate Committee on Banking and Insurance (January 28, 2021)

shelters. The HLMP program operations are funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The HLMP and the associated \$10 million appropriation from the Florida Hurricane Catastrophe Fund are set to expire on June 30, 2021.

Section 2 provides the act takes effect upon become a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate with respect to insurance premiums. A reduction in wind loss attributable to retrofitted tie-downs may be offset by wind loss attributable to carports and sunrooms not constructed to code, which FEMA has concluded as being the primary causes of damage to mobile homes from a wind event.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.559 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on February 2, 2021:

The committee substitute removes a cross-reference to a defunct rate standard for mobile home insurance policies issued by Citizens Property Insurance Corporation.

B. Amendments:

None.



866994

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 50 - 53
and insert:
Hurricane Andrew. ~~Rates resulting from the completion of the
Manufactured Housing and Mobile Home Mitigation and Enhancement
Program are not considered competitive rates for the purposes of
s. 627.351(6)(d)1. and 2.~~

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



866994

11 And the title is amended as follows:

12 Delete lines 3 - 4

13 and insert:

14 Program; amending s. 215.559, F.S.; deleting
15 construction relating to Citizens Property Insurance
16 Corporation coverage rates; delaying the future repeal
17 of the

By Senator Hooper

16-00360-21

2021168__

A bill to be entitled

An act relating to the Hurricane Loss Mitigation Program; amending s. 215.559, F.S.; correcting a cross-reference; delaying the future repeal of the Hurricane Loss Mitigation Program; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) and subsection (7) of section 215.559, Florida Statutes, are amended to read:

215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss Mitigation Program is established in the Division of Emergency Management.

(2)

(b)1. The Manufactured Housing and Mobile Home Mitigation and Enhancement Program is established. The program shall require the mitigation of damage to or the enhancement of homes for the areas of concern raised by the Department of Highway Safety and Motor Vehicles in the 2004-2005 Hurricane Reports on the effects of the 2004 and 2005 hurricanes on manufactured and mobile homes in this state. The mitigation or enhancement must include, but need not be limited to, problems associated with weakened trusses, studs, and other structural components caused by wood rot or termite damage; site-built additions; or tie-down systems and may also address any other issues deemed appropriate by Tallahassee Community College, the Federation of Manufactured Home Owners of Florida, Inc., the Florida Manufactured Housing Association, and the Department of Highway Safety and Motor

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00360-21

2021168__

Vehicles. The program shall include an education and outreach component to ensure that owners of manufactured and mobile homes are aware of the benefits of participation.

2. The program shall be a grant program that ensures that entire manufactured home communities and mobile home parks may be improved wherever practicable. The moneys appropriated for this program shall be distributed directly to Tallahassee Community College for the uses set forth under this subsection.

3. Upon evidence of completion of the program, the Citizens Property Insurance Corporation shall grant, on a pro rata basis, actuarially reasonable discounts, credits, or other rate differentials or appropriate reductions in deductibles for the properties of owners of manufactured homes or mobile homes on which fixtures or construction techniques that have been demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The discount on the premium must be applied to subsequent renewal premium amounts. Premiums of the Citizens Property Insurance Corporation must reflect the location of the home and the fact that the home has been installed in compliance with building codes adopted after Hurricane Andrew. Rates resulting from the completion of the Manufactured Housing and Mobile Home Mitigation and Enhancement Program are not considered competitive rates for the purposes of s. 627.351(2)(b)5.b. ~~s. 627.351(6)(d)1. and 2.~~

4. On or before January 1 of each year, Tallahassee Community College shall provide a report of activities under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must set forth the number of homes that have taken advantage of the

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00360-21

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59 program, the types of enhancements and improvements made to the
60 manufactured or mobile homes and attachments to such homes, and
61 whether there has been an increase in availability of insurance
62 products to owners of manufactured or mobile homes.

63
64 Tallahassee Community College shall develop the programs set
65 forth in this subsection in consultation with the Federation of
66 Manufactured Home Owners of Florida, Inc., the Florida
67 Manufactured Housing Association, and the Department of Highway
68 Safety and Motor Vehicles. The moneys appropriated for the
69 programs set forth in this subsection shall be distributed
70 directly to Tallahassee Community College to be used as set
71 forth in this subsection.

72 (7) This section is repealed June 30, 2031 ~~2021~~.

73 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21
Meeting Date

SB 168
Bill Number (if applicable)

Topic Hurricane Loss Mitigation Program Amendment Barcode (if applicable)

Name Lori Killinger

Job Title Legislative Counsel

Address 315 S Calhoun St 830

Phone 850-222-5702

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Manufactured Housing Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/2024 Meeting Date

SB 168 Bill Number (if applicable)

Topic Hurricane Loss Mitigation Program

Amendment Barcode (if applicable)

Name Christopher Cantens

Job Title AVP Governmental Relations

Address 11200 SW 8 Street

Phone 305-348-3505

Street

Miami City

FL State

33179 Zip

Email ccantens@fiu.edu

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida International University

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/2/21
Meeting Date

SB 168
Bill Number (if applicable)

Topic Hurricane Loss Mitigation Program Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title Legislative Counsel

Address 1400 Village Sq Bld Ste 3-156 Phone 850 385 7805

Tallahassee FL 32312 Email nancy.stewart@nancyblackstewart.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SPB 7014

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Office of Insurance Regulation

DATE: February 3, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Johnson	Knudson		BI Submitted as Comm. Bill/Fav

I. Summary:

SPB 7014 amends s. 624.4212, F.S., to save from repeal the public records exemption relating to insurer reporting of certain proprietary business and other information that is held by the Office of Insurance Regulation. The proprietary business information includes, but is not limited to, reports submitted by insurers, such as the enterprise risk report, the own risk and solvency assessment (ORSA) summary report or a substantially similar ORSA report, the corporate governance annual disclosure (CGAD), and supporting documentation. This information will continue to be confidential and exempt from public disclosure beyond October 2, 2020.

By saving s. 624.4212, F.S., from repeal, the bill also prevents the repeal of amendments made to s. 628.8015, F.S., and s. 628.803, F.S., implementing the following National Association of Insurance Commissioners Model Acts and Regulations:

- Risk Management and Own-risk and Solvency Assessment Model Act.
- Corporate Governance and Disclosure Model Act; and the corresponding Corporate Governance Annual Disclosure Model Regulation.

The bill is not expected to impact state or local government revenues and expenditures.

The bill takes effect October 1, 2021.

II. Present Situation:

Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three

¹ FLA. CONST. art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.²

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.³ A public record includes virtually any document or recording, regardless of its physical form or the method of transmission.⁴ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁵

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁶ A violation of the Public Records Act may result in civil or criminal liability.⁷

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁸ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.⁹

General exemptions from the public records requirements are contained in the Public Records Act.¹⁰ Specific exemptions often are placed in the substantive statutes relating to a particular

² *Id.*

³ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁴ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁵ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁶ Section 119.07(1)(a), F.S.

⁷ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁸ FLA. CONST. art. I, s. 24(c).

⁹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹⁰ See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

agency or program.¹¹ When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹² Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹³

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁴ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁵ public records or open meetings exemptions, with specified exceptions.¹⁶ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁷

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁸ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;¹⁹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

¹¹ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹² See *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991).

¹³ *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

¹⁴ Section 119.15, F.S.

¹⁵ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁶ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁷ Section 119.15(3), F.S.

¹⁸ Section 119.15(6)(b), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² Section 119.15(6)(a), F.S. The specified questions are:

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁴

Regulation of Insurance in Florida

States are the primary regulators of insurance companies. In Florida, the Office of Insurance Regulation (OIR)²⁵ is primarily responsible for licensing insurance companies, monitoring the solvency of regulated insurers, examining insurers to determine compliance with applicable laws, and taking administrative action, if necessary.

In 2016, the Legislature enacted laws²⁶ implementing the National Association of Insurance Commissioners' (NAIC)²⁷ Risk Management and Own-risk and Solvency Assessment (ORSA) Model Act²⁸ and the Corporate Governance and Disclosure Model Act and the corresponding Corporate Governance Annual Disclosure Model Regulation²⁹ (CGAD). The ORSA Model Act requires insurers to conduct an internal assessment of all relevant material risks (e.g., underwriting, credit, market) potentially affecting their ability to meet policyholder obligations. The ORSA Model Act requires insurers (or an insurance group, as applicable) to conduct an ORSA at least annually and file an ORSA summary report based with their domestic regulator or lead state (for an insurance group).

The CGAD Model Act and Regulation, which specify requirements for extensive disclosure of regulated insurers' corporate governance practices, are designed to provide insurance regulators with sufficient information on insurers' governance practices through an annual reporting. Insurers or insurer groups must file a Corporate Governance Annual Disclosure (CGAD) with

-
- What specific records or meetings are affected by the exemption?
 - Whom does the exemption uniquely affect, as opposed to the general public?
 - What is the identifiable public purpose or goal of the exemption?
 - Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²³ See generally s. 119.15, F.S.

²⁴ Section 119.15(7), F.S.

²⁵ Section 20.121(3)(a), F.S.

²⁶ Ch. 2016-206, Laws of Fla. The ORSA and CGAD requirements are codified in ss. 628.8015, F.S. Section 628.803, F.S., provides sanctions for noncompliance with reporting requirements.

²⁷ The OIR is a member of the National Association of Insurance Commissioners (NAIC), which is an association of state insurance regulators. The NAIC coordinates regulation and examination of multistate insurers, and promotes uniform model laws among the states. The NAIC accreditation is a certification that a state insurance regulator is fulfilling legal, financial, and organizational standards. The NAIC establishes accreditation effective dates for states to adopt in substantially similar form models and acts for purposes of NAIC accreditation review. The OIR is accredited by the NAIC.

²⁸ National Association of Insurance Commissioners, The Risk Management and Own Risk and Solvency Assessment Model Act (2012) <https://content.naic.org/sites/default/files/inline-files/MDL-505.pdf?64> (last viewed Oct. 26, 2020).

²⁹ National Association of Insurance Commissioners, Corporate Governance Annual Disclosure Model Act, (2014) <https://content.naic.org/sites/default/files/inline-files/MDL-305.pdf> and the Corporate Governance Annual Disclosure Model Regulation (2014) <https://content.naic.org/sites/default/files/inline-files/MDL-306.pdf> (last viewed October 26, 2020).

their domestic regulator or the lead state regulator (for an insurance group). The CGAD Model and Regulation require insurers to document highly confidential information about their corporate governance framework, and submit annual disclosures to the insurance regulator. This includes the policies of their boards of directors, procedure for the oversight of critical risk areas, and appointment practices. Provisions in the model act and regulation require that states must keep ORSA and CGAD documents confidential.

Open Government Sunset Review of the Public Records Exemption for Insurer Reporting of Proprietary Business Information

Section 624.4212, F.S., defines insurer “proprietary business information”³⁰ and makes such information and related information held by the OIR confidential and exempt³¹ from s. 119.07(1), F. S., and Art. I, s. 24(a) of the State Constitution.³² This includes proprietary business information and supporting documents contained in documents, such as the actuarial opinion summary, principle-based valuation report, enterprise risk report, insurance holding company registration, ORSA summary report, and corporate governance annual disclosure. In some instances, the OIR may disclose this confidential and exempt proprietary business information to other state, federal, and international agencies.³³

In 2016, the Legislature amended s. 624.4212, F.S., to provide that, except for information obtained by the OIR which would otherwise be available for public inspection, that ORSA summary reports, substantially similar ORSA reports, CGAD annual disclosure, and supporting documents held by the OIR pursuant to s. 628.8015, F.S.,³⁴ are confidential and exempt from s. 119.07(1) and Art. I, s. 24(a) of the State Constitution. In creating the exemption, Legislature found that exempting the ORSA reports and CGAD disclosures, and supporting information is a public necessity. The Legislature recognized that the release of the ORSA reports, the CGAD annual disclosures, and supporting documents would injure the insurer in the marketplace by providing competitors with the insurer’s confidential business information.

Section 624.4212, F.S., is repealed on October 2, 2021, unless reviewed and saved from repeal by the Legislature pursuant to the Open Government Sunset Review Act. Further, the 2016 law³⁵ enacting the amendments to s. 624.4212, F.S, provides that s. 628.8015, F.S., and the amendments made by this law to s. 628.803, F.S., are repealed on October 2, 2021, unless,

³⁰ Section 624.4212(1), F.S.

³¹ There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates as *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, the record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See 85-62 Fla. Op. Att’y Gen. (1985).

³² Ch. 2014-100, Laws of Fla.

³³ Section 624.4212(2), F.S.

³⁴ Ch. 2016-206, Laws of Fla.

³⁵ See s. 3, ch. 2016-206, Laws of Fla. See Notes to Sections 628.8015 and 628.803, F.S.

before that date, the Legislature saves from repeal through reenactment the amendments to s. 624.4212, F.S., made by SB 1416³⁶ or similar legislation.³⁷

Senate Banking and Insurance Committee staff surveyed the OIR to ascertain whether the public records exemption in s. 624.4212, F.S., remains necessary. Staff reviewed the OIR's responses to the questions to be considered by the Legislature in accordance with s. 119.115(6)(a), F.S. The OIR recommends that the Legislature reenact this public records exemption. The exemption in s. 624.4212, F.S., is adequately meeting its goal and the OIR does not find a need to expand the exemption at this time.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 624.4212, F.S., to delete the scheduled repeal of the current public records exemption of insurer proprietary business information and other information. This information will continue to be confidential and exempt from public disclosure. Further, the Office of Insurance Regulation is authorized to disclose³⁹ such proprietary business information and other information to the Office of Insurance Consumer Advocate within the Department of Financial Services.

By saving s. 624.4212, F.S., from repeal, the bill also prevents the repeal of amendments made to s. 628.8015, F.S., and s. 628.803, F.S., implementing the following National Association of Insurance Commissioners Model Acts and Regulations:

- Risk Management and Own-risk and Solvency Assessment Model Act.
- Corporate Governance and Disclosure Model Act; and the corresponding Corporate Governance Annual Disclosure Model Regulation.

Section 2 provides the bill takes effect October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption

³⁶ Ch. 2016-205, Laws of Fla.

³⁷ Section 628.803, F.S., authorizes the OIR to impose sanctions for specified violations of the Insurance Code. If s. 624.4212, F.S., was not reenacted, the amendments in s. 628.803(1) and (4), F.S., provides sanctions

³⁸ Correspondence from the OIR (Aug. 10, 2020) on file with Senate Banking and Insurance Committee.

³⁹ The recipient, here the Office of Insurance Consumer Advocate, must agree in writing to maintain the confidential and exempt status of the information.

beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article 1, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of this law is to protect all images obtained from an automatic license plate recognition system as well as any personal identifying information in any data generated from images obtained from such a system. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The reenactment of the public records exemption will protect sensitive business information about an insurer or insurer group that is reported to the OIR.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 624.4212 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



623288

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 106

and insert:

(d) To other states, federal and international agencies,
the Office of Insurance Consumer Advocate,

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

And the title is amended as follows:

Between lines 3 and 4



623288

11 insert:
12 adding the Office of Insurance Consumer Advocate to
13 the list of entities to which the Office of Insurance
14 Regulation may disclose confidential and exempt
15 information;

FOR CONSIDERATION By the Committee on Banking and Insurance

597-00886-21

20217014pb

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 624.4212, F.S.;
 4 removing the scheduled repeal of an exemption from
 5 public records requirements for certain proprietary
 6 business information and information that is
 7 confidential and held by the Office of Insurance
 8 Regulation; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 624.4212, Florida Statutes, is amended
 13 to read:
 14 624.4212 Confidentiality of proprietary business and other
 15 information.—
 16 (1) As used in this section, the term "proprietary business
 17 information" means information, regardless of form or
 18 characteristics, which is owned or controlled by an insurer, or
 19 a person or an affiliated person who seeks acquisition of
 20 controlling stock in a domestic stock insurer or controlling
 21 company, and which:
 22 (a) Is intended to be and is treated by the insurer or the
 23 person as private in that the disclosure of the information
 24 would cause harm to the insurer, the person, or the company's
 25 business operations and that the information has not been
 26 disclosed unless disclosed pursuant to a statutory requirement,
 27 an order of a court or administrative body, or a private
 28 agreement that provides that the information will not be
 29 released to the public;

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

597-00886-21

20217014pb

30 (b) Is not otherwise readily ascertainable or publicly
 31 available by proper means by other persons from another source
 32 in the same configuration as requested by the office; and
 33 (c) Includes:
 34 1. Trade secrets as defined in s. 688.002 which comply with
 35 s. 624.4213.
 36 2. Information relating to competitive interests, the
 37 disclosure of which would impair the competitive business of the
 38 provider of the information.
 39 3. The source, nature, and amount of the consideration used
 40 or to be used in carrying out a merger or other acquisition of
 41 control in the ordinary course of business, including the
 42 identity of the lender, if the person filing a statement
 43 regarding consideration so requests.
 44 4. Information relating to bids or other contractual data,
 45 the disclosure of which would impair the efforts of the insurer
 46 or its affiliates to contract for goods or services on favorable
 47 terms.
 48 5. Internal auditing controls and reports of internal
 49 auditors.
 50 (2) Proprietary business information contained in the
 51 following items held by the office is confidential and exempt
 52 from s. 119.07(1) and s. 24(a), Art. I of the State
 53 Constitution:
 54 (a) The actuarial opinion summary required under ss.
 55 624.424(1)(b) and 625.121(3) and information related thereto.
 56 (b) A notice filed with the office by the person or
 57 affiliated person who seeks to divest controlling stock in an
 58 insurer pursuant to s. 628.461.

Page 2 of 5

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597-00886-21

20217014pb

59 (c) The filings required under s. 628.801 and information
60 related thereto.

61 (d) The enterprise risk report required under ss.
62 628.461(3) and 628.801 and information related thereto.

63 (e) Information provided to or obtained by the office
64 pursuant to participation in a supervisory college established
65 under s. 628.805.

66 (f) Beginning on the operative date of the valuation manual
67 as defined in s. 625.1212(2):

68 1. An actuarial examination conducted pursuant to s.
69 625.1212(5)(c), and information related thereto;

70 2. The annual certification submitted by the insurer
71 pursuant to s. 625.1212(6)(b)2., and information related
72 thereto;

73 3. The principle-based valuation report filed pursuant to
74 s. 625.1212(6)(b)3., and information related thereto; and

75 4. Mortality, morbidity, policyholder behavior, or expense
76 experience and other data submitted pursuant to s. 625.1212(7),
77 which includes potentially company identifiable or personally
78 identifiable information.

79 (3) Except for information obtained by the office which
80 would otherwise be available for public inspection, the
81 following information held by the office is confidential and
82 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
83 Constitution:

84 (a) An ORSA summary report, a substantially similar ORSA
85 report, and supporting documents submitted pursuant to s.
86 628.8015.

87 (b) A corporate governance annual disclosure and supporting

Page 3 of 5

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597-00886-21

20217014pb

88 documents submitted pursuant to s. 628.8015.

89 (4) Information received from the NAIC, a governmental
90 entity in this or another state, the Federal Government, or a
91 government of another nation which is confidential or exempt if
92 held by that entity and which is held by the office for use in
93 the performance of its duties relating to insurer valuation and
94 solvency is confidential and exempt from s. 119.07(1) and s.
95 24(a), Art. I of the State Constitution.

96 (5) The office may disclose information made confidential
97 and exempt under this section:

98 (a) If the insurer to which it pertains gives prior written
99 consent;

100 (b) Pursuant to a court order;

101 (c) To the Actuarial Board for Counseling and Discipline
102 upon a request stating that the information is for the purpose
103 of professional disciplinary proceedings and specifying
104 procedures satisfactory to the office for preserving the
105 confidentiality of the information;

106 (d) To other states, federal and international agencies,
107 the National Association of Insurance Commissioners and its
108 affiliates and subsidiaries, and state, federal, and
109 international law enforcement authorities, including members of
110 a supervisory college described in s. 628.805 if the recipient
111 agrees in writing to maintain the confidential and exempt status
112 of the document, material, or other information and has
113 certified in writing its legal authority to maintain such
114 confidentiality; or

115 (e) For the purpose of aggregating information on an
116 industrywide basis and disclosing the information to the public

Page 4 of 5

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597-00886-21

20217014pb

117 only if the specific identities of the insurers, or persons or
118 affiliated persons, are not revealed.

119 ~~(6) This section is subject to the Open Government Sunset~~
120 ~~Review Act in accordance with s. 119.15 and is repealed on~~
121 ~~October 2, 2021, unless reviewed and saved from repeal through~~
122 ~~reenactment by the Legislature.~~

123 Section 2. This act shall take effect October 1, 2021.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

FEB 2 2021

SB 704

Meeting Date

Bill Number (if applicable)

Topic

Insurance Regulation Public Record

Amendment Barcode (if applicable)

Name

David Sandan

Job Title

Concerned Senior Citizen Public Commenter

Address

16 Wintersgreen Dr

Phone 352 805 6597

Street

City

Fruitland Park FL

State

Zip

34731

Email goldsandave1955@gmail.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Self & My Wife

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: KN 412
Caption: Senate Banking and Insurance Committee

Case No.:

Type:
Judge:

Started: 2/2/2021 3:30:15 PM
Ends: 2/2/2021 5:53:53 PM **Length:** 02:23:39

3:30:14 PM Meeting called to order
3:30:19 PM Roll call
3:30:21 PM Quorum is present
3:30:40 PM Chair Boyd comments on civic center public appearance
3:31:13 PM SB 168 Hurricane Mitigation Program by Senator Hooper
3:32:06 PM Senator Hooper explains the bill
3:34:04 PM Lori Killinger Legislative Counsel FL Manufactured Housing Association waive in support
3:34:11 PM Christopher Cantens in support- Florida International University Miami
3:34:19 PM Nancy Stewart Tallahassee Legislative Counsel in support
3:35:10 PM Senator Hooper waive close
3:35:15 PM Roll call
3:35:18 PM SB168 is reported favorably
3:35:58 PM Chair Boyd pass the gavel to Vice-chair Broxson
3:36:08 PM SB 76 Residential Property Insurance by Senator Boyd
3:36:24 PM Senator Boyd explains the bill
3:40:13 PM Senator Boyd explains amendment barcode 301036
3:42:41 PM Comments by Senator Boyd
3:44:30 PM SB 76 has six amendment
3:44:47 PM Senator Rouson with question to sponsor of SB 76
3:45:11 PM Senator Boyd answers
3:46:10 PM Senator Rouson with follow up question on results in other states and the impact
3:47:16 PM Senator Boyd responds
3:48:04 PM Senator Rouson with follow up
3:48:12 PM Senator Boyd responds
3:48:39 PM Senator Rouson with question
3:48:52 PM Senator Boyd answers
3:49:03 PM Senator Rouson continues
3:49:08 PM Senator Boyd responds
3:49:27 PM Senator Thurston with question for Sponsor
3:50:00 PM Senator Boyd responds to question on claim processing
3:51:28 PM Senator Thurston with follow up
3:51:48 PM Senator Boyd responds on question about judges
3:52:31 PM Senator Thurston
3:53:31 PM Senator Boyd responds
3:54:33 PM Senator Thurston
3:54:46 PM Senator Boyd responds on time line
3:55:06 PM Senator Taddeo with comments to Senator Boyd then a question
3:55:59 PM Senator Boyd responds
3:56:14 PM Discussion of evidence of results in states
3:56:23 PM Senator Taddeo with question on 12 point disclosure
3:56:38 PM Senator Boyd responds
3:58:39 PM Senator Broxson brings up amendment
3:59:39 PM Senator Boyd concludes on his answer to Senator Taddeo
4:00:11 PM Senator Brandes with question on roof
4:00:30 PM Senator Boyd responds
4:01:42 PM Senator Brandes concludes
4:01:49 PM Senator Thurston with question on example about a roof
4:02:22 PM Senator Boyd responds
4:03:00 PM Senator Boyd discussing personal responsibility
4:03:17 PM Senator Thurston with follow up question on roof example
4:03:39 PM Senator Boyd with response
4:05:54 PM Senator Broxson with question on carrier behavior

4:06:09 PM Senator Boyd with response
4:09:36 PM Senator Broxson takes up amendment barcode 214308 by Senator Rouson
4:10:15 PM Senator Rouson explains the amendment
4:12:04 PM Senator Rouson is explaining the amendment
4:12:51 PM Questions on the amendment barcode 301036
4:13:18 PM Senator Rodrigues with question to Senator Boyd
4:13:43 PM Senator Boyd responds
4:14:20 PM Public appearance from civic center on amendment
4:15:39 PM Steven Richardson Florida Justice Reform Institute opposes the amendment
4:18:31 PM Matthew Collett Attorney Jacksonville Florida Justice Association in support
4:19:41 PM Matthew Collett Attorney Jacksonville Florida Justice Association sits - not back on the bill yet
4:19:53 PM Continue with appearance on the amendment
4:21:25 PM
4:23:27 PM Call for anyone else at the civic centre
4:24:40 PM Aaron Rosen certified Mold Free with information on the bill- still on the amendment he sits
4:25:41 PM Senator Rouson closes on the amendment
4:25:55 PM Amendment barcode 301036 is reported failed
4:26:55 PM Amendment Barcode 232144 by Senator Boyd with a SA barcode to 977334
4:27:22 PM Senator Boyd explains the SA 232144
4:27:47 PM Questions on the amendment
4:29:33 PM Senator Taddeo with discussion on disclosure
4:30:37 PM Senator Taddeo with follow up question on Senator Boyds SA
4:31:06 PM Senator Boyd responds
4:31:55 PM Senator Taddeo with follow up question
4:32:15 PM Senator Boyd responds on benefits for owners
4:32:42 PM Senator Boyd responds
4:33:45 PM Senator Boyd continues answer
4:34:13 PM Senator Broxson with question
4:34:35 PM Senator Boyd answers
4:34:47 PM Amendment barcode 480584 late filed by Senator Taddeo is accepted by motion
4:35:24 PM Senator Taddeo explains the late amendment
4:38:21 PM W Clint Moore of Orlando Florida Justice Association in support of the amendment
4:39:52 PM Hillary Cassel of Hollywood for Florida Policyholders Cooperative with information
4:43:35 PM Debate: Chair Boyd
4:44:04 PM Senator Taddeo closes on Amendment barcode 480584
4:45:32 PM The amendment fails
4:46:34 PM Back on amendment barcode 977334 SA by Senator Boyd - for public appearance
4:47:09 PM No public appearance
4:47:22 PM No debate
4:47:24 PM Senator Boyd waives close on amendment
4:47:31 PM The amendment barcode 977334 is approved
4:47:42 PM Amendment Barcode 214308 by Senator Rouson is taken up
4:48:00 PM Senator Rouson explains the amendment
4:49:32 PM Questions: none
4:49:45 PM
4:50:47 PM Richie Kidwell Winter Park Restoration Association of FL in support of the amendment
4:51:48 PM President of Restoration Association of Florida
4:53:14 PM Matthew Collett Attorney Jacksonville for Florida Justice Association in support of amendment
4:57:09 PM Grant Rockett of Restoration in support of the amendment
4:58:11 PM Debate: Senator Brandes in opposition of amendment
5:00:03 PM Senator Thurston in support of the amendment
5:02:45 PM Senator Boyd not in support of the amendment
5:03:40 PM Senator Rouson closes on the amendment
5:04:17 PM Amendment barcode 214308 fails
5:05:19 PM Amendment barcode 440438 by Senator Thurston
5:05:51 PM Senator Thurston explains the amendment
5:07:02 PM Questions: none
5:08:13 PM Matthew Landau of the Landau Law Group of Boca Raton in support of the amendment
5:12:33 PM David Murray Policy Holder Cooperative
5:13:33 PM Joe Busby retired citizen in Marianna in support of the amendment, Vice Chair Broxson recommends
Staff to turn this situation to the CFO
5:17:33 PM Mark Delegal State Farm Insurance

5:18:44 PM no further appearance on amendment
5:19:44 PM Debate: Senator Brandes in opposition
5:21:14 PM Senator Boyd in opposition to amendment
5:21:31 PM Senator Thurston closes on the Amendment barcode 440438
5:23:16 PM Amendment barcode 440438 fails
5:24:17 PM Amendment barcode 590314 by Senator Thurston
5:24:43 PM Senator Thurston explains the amendment
5:26:41 PM Chris Campione Attorney Florida Homeowners from Jacksonville in support
5:28:08 PM Amendment 590314 fails
5:29:07 PM Motion by Senator Taddeo
5:29:11 PM Amendment barcode 534640 is withdrawn by Senator Taddeo
5:30:00 PM Appearance for SB 76 withdrawn amendment- W Clint Moore in support
5:30:08 PM George Feijoo Consultant Tallahassee Florida Insurance Council in support
5:30:28 PM Christine Ashburn waive in support - Chief Communications Leg & External Affairs Citizens Property Insurance
5:31:24 PM BG Murphy Director Govt Affairs Florida Association of Insurance Agents in support
5:31:32 PM Steven Richardson Florida Justice Reform Institute in support
5:31:51 PM Matthew Landau Attorney Boca Raton- the Landau Law Group in opposition
5:32:03 PM In opposition: Joe Busby- Marianna citizen
5:33:18 PM Matthew Collett Attorney Jacksonville, Florida Justice Association
5:35:04 PM Chris Campione Attorney Jacksonville for Florida Homeowners in opposition
5:35:47 PM Brewster Bevis Sr. Vice President Associated Industries of Florida in support
5:35:55 PM Chris Dawson Attorney Orlando Florida Roofing and Sheet Metal Contractors Association with information
5:35:55 PM Doug Bell ASI- Progressive Insurance in support Tallahassee
5:35:59 PM Carolyn Johnson Sr. Policy Director Florida Chamber of Commerce in support Tallahassee
5:36:05 PM Richie Kidwell, Owner Air Quality Assessors Winter Park Restoration Association of FL in opposition
5:36:10 PM Grant Rockett Contractor Homeowner Destin in opposition
5:36:13 PM Aaron Penn Umpire & Appraiser Palm City for Cameron Claims Management in opposition
5:36:23 PM Aaron Rosen Mold Assessor/ Remediator Davie FL Certified Model Free with information
5:36:23 PM Jim Massie Attorney Tallahassee Reinsurance Association of America in support
5:36:27 PM Scott Matiyow VP Leg Regulatory Affairs of Personal Insurance Federation of FL Tallahassee in support
5:36:30 PM Randy Lewis Sr. Architect Roof Consultant Tallahassee in opposition for MLD Architects
5:36:34 PM W. Clint Moore Attorney Orlando for Florida Justice Association in opposition
5:36:39 PM Dave Serdar, Citizen of Fruitland Park with information - oppose
5:37:13 PM DEBATE: Senator Brandes in support of bill
5:39:01 PM Senator Thurston in debate expresses concerns
5:41:16 PM Senator Stewart in debate in support
5:42:03 PM Senator Taddeo in opposition having cited her concerns previously
5:43:54 PM Senator Rodrigues in debate
5:44:56 PM Senator Broxson in support
5:46:13 PM Senator Boyd closes on SB 76
5:46:30 PM Roll call
5:48:48 PM CS/SB 76 is reported favorably
5:49:50 PM Senator Boyd to explain SB7014 OGSR Office of Insurance Regulation
5:50:35 PM Questions: none
5:50:41 PM Amendment barcode 623288 by Senator Taddeo
5:51:00 PM Senator Taddeo explains the amendment
5:51:08 PM Questions: none on the amendment
5:51:38 PM No public appearance
5:51:46 PM Amendment 623288 is adopted
5:52:18 PM Appearance on the bill David Serdar with information
5:52:57 PM Debate: none
5:53:04 PM Senator Boyd waives close
5:53:06 PM Roll call
5:53:08 PM SPB7014 reported favorable
5:53:33 PM No other business before the committee
5:53:37 PM Senator Stewart moves that we adjourn. Meeting is adjourned.