

Bill No. SB 286

Barcode 464704

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Campbell) recommended the following **amendment to amendment** (165004):

Senate Amendment

On page 6, line 10, through
page 9, line 18, delete those lines

and insert:

627.7074 Alternative procedure for resolution of
disputed sinkhole insurance claims.--

(1) As used in this section, the term:

(a) "Neutral evaluation" means the alternative dispute
resolution provided for in this section.

(b) "Neutral evaluator" means a professional engineer
or a professional geologist who has completed a course of
study in alternative dispute resolution designed or approved
by the department for use in the neutral-evaluation process,
who is determined to be fair and impartial, and who is
attempting to resolve the dispute or claim under this section.

(c) "Department" means the Department of Financial
Services.

Bill No. SB 286

Barcode 464704

1 (2) The department shall certify and maintain a list
2 of persons who are neutral evaluators.

3 (3) Following the receipt of the report provided under
4 s. 627.7073 or the denial of a claim for a sinkhole loss, the
5 insurer shall notify the policyholder of his or her right to
6 participate in the neutral evaluation program under this
7 section. Neutral evaluation supersedes the alternative dispute
8 resolution process under s. 627.7015. The department shall
9 prepare a consumer information pamphlet for distribution by
10 the insurer to policyholders. The pamphlet must clearly
11 describe the neutral-evaluation process and include directions
12 and forms necessary for the policyholder to request a neutral
13 evaluation.

14 (4) Neutral evaluation is optional and nonbinding.
15 Either the policyholder or the insurer may decline to
16 participate. A request for neutral evaluation must be filed
17 with the department by the policyholder or the insurer on a
18 form approved by the department. The request for neutral
19 evaluation must state the reason for the request and must
20 include an explanation of the issues in dispute at the time of
21 the request. Filing a request for neutral evaluation tolls the
22 applicable time requirements for filing suit for a period of
23 60 days following the conclusion of the neutral-evaluation
24 process or the time prescribed in s. 95.11, whichever is
25 later.

26 (5) Neutral evaluation shall be conducted as an
27 informal process in which formal rules of evidence and
28 procedure need not be observed. A party to neutral evaluation
29 is not required to attend neutral evaluation if a
30 representative of the party attends and has the authority to
31 make a binding decision on behalf of the party. All parties

Bill No. SB 286

Barcode 464704

1 shall participate in the evaluation in good faith.

2 (6) The insurer shall pay the costs associated with
3 the neutral evaluation.

4 (7) Upon receipt of a request for neutral evaluation,
5 the department shall provide to the parties a list of
6 certified neutral evaluators. The parties shall mutually
7 select a neutral evaluator from the list. If the parties
8 cannot agree to a neutral evaluator within 10 business days, a
9 court of competent jurisdiction shall appoint a neutral
10 evaluator from the department list.

11 (8) Within 5 days after the referral, the neutral
12 evaluator shall notify the policyholder and the insurer of the
13 date, time, and place of the neutral evaluation conference.
14 The conference may be held by telephone, if feasible and
15 desirable. The neutral evaluation conference shall be held
16 within 45 days after receipt of the request by the department.

17 (9) The department shall adopt rules of procedure for
18 the neutral-evaluation process.

19 (10) For policyholders not represented by an attorney,
20 a consumer affairs specialist of the department or an employee
21 designated as the primary contact for consumers on issues
22 relating to sinkholes under s. 20.121 shall be available for
23 consultation to the extent that he or she may lawfully do so.

24 (11) Disclosures and information divulged in the
25 neutral-evaluation process are not admissible in any
26 subsequent action or proceeding relating to the claim or to
27 the cause of action giving rise to the claim, except as
28 provided in subsection (13).

29 (12) Any court proceeding related to the subject
30 matter of the neutral evaluation shall be stayed pending
31 completion of the neutral evaluation.

Bill No. SB 286

Barcode 464704

1 (13) For matters that are not resolved by the parties
2 at the conclusion of the neutral evaluation, the neutral
3 evaluator shall prepare a report stating that in his or her
4 opinion the sinkhole loss has been verified or eliminated and,
5 if verified, the need for and estimated costs of stabilizing
6 the land and any covered structures or buildings and other
7 appropriate remediation or structural repairs. The evaluator's
8 report shall be sent to all parties in attendance at the
9 neutral evaluation and to the department.

10 (14) The recommendation of the neutral evaluator is
11 not binding on any party, and the parties retain access to
12 courts. The neutral evaluator's written recommendation is
13 admissible in any subsequent action or proceeding relating to
14 the claim or to the cause of action giving rise to the claim.

15 (15) A party may seek judicial review of the
16 recommendation of the neutral evaluator to determine whether
17 the recommendation is reasonable. A recommendation is
18 reasonable unless it was procured by corruption, fraud, or
19 other undue means; there was evident partiality by the neutral
20 evaluator or misconduct prejudicing the rights of any party;
21 or the neutral evaluator exceeded the authority and power
22 granted by this subsection. If the court declares that the
23 recommendation is not reasonable, the neutral-evaluation
24 recommendation shall be vacated.

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