

By Senator Fasano

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1                   A bill to be entitled  
2           An act relating to property insurance; amending s.  
3           627.70131, F.S.; defining the term "claim-related  
4           document"; requiring an insurer to disclose to a  
5           claimant certain information relating to policy  
6           coverage, that the claimant may request and obtain all  
7           claim-related documents, and whether there are any  
8           time requirements that would result in an insurer  
9           denying a claim; creating s. 627.70133, F.S.;  
10          incorporating provisions transferred from s.  
11          627.70131, F.S., relating to the payment of claims;  
12          creating s. 627.70191, F.S.; providing for the  
13          extension of the period of coverage for additional  
14          living expenses resulting from a state of emergency;  
15          amending s. 627.062, F.S.; conforming a cross-  
16          reference; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20           Section 1. Section 627.70131, Florida Statutes, is amended  
21 to read:

22           627.70131 ~~Insurer's duty to acknowledge~~ Communications  
23 regarding claims; required notices; investigation.—

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

25           (a) "Agent" means any person to whom an insurer has granted  
26 authority or responsibility for receiving or making  
27 communications with respect to claims on behalf of the insurer.

28           (b) "Claim-related documents" means all documents,  
29 instructions, and telephone numbers that relate to the

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30 evaluation of claims for damages, including repair and  
31 replacement estimates and bids, appraisals, scopes of loss,  
32 drawings, plans, reports, third-party findings on the amount of  
33 loss, covered damages, cost of repairs, and all other valuation,  
34 measurement, and loss adjustment calculations of the amount of  
35 loss, covered damage, and cost of repairs. The term does not  
36 include attorney work products or documents subject to an  
37 attorney-client privilege, documents that indicate fraud by the  
38 insured, or documents that contain medically privileged  
39 information.

40 (c) "Insurer" means a residential property insurer.

41 ~~(2)(1)(a)~~ Upon an insurer's receiving a communication with  
42 respect to a claim, the insurer shall, within 14 calendar days,  
43 review and acknowledge receipt of such communication unless  
44 payment is made within that period of time or unless the failure  
45 to acknowledge the claim is caused by factors beyond the control  
46 of the insurer which reasonably prevent such acknowledgment. If  
47 the acknowledgment is not in writing, a notation ~~notification~~  
48 indicating acknowledgment of the communication must ~~shall~~ be  
49 made in the insurer's claim file and dated. A communication made  
50 to or by an agent of an insurer with respect to a claim  
51 constitutes ~~shall constitute~~ communication to or by the insurer.

52 ~~(b) As used in this subsection, the term "agent" means any~~  
53 ~~person to whom an insurer has granted authority or~~  
54 ~~responsibility to receive or make such communications with~~  
55 ~~respect to claims on behalf of the insurer.~~

56 ~~(e)~~ This subsection does ~~shall~~ not apply to claimants  
57 represented by counsel beyond those communications that are  
58 necessary to provide claim-related documents ~~forms and~~

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59 instructions.

60 (3)-(2) Such Acknowledgment of a communication must shall be  
61 responsive to the communication.

62 (a) The insurer must disclose to a claimant all benefits,  
63 coverage, time limits, or other provisions of an insurance  
64 policy issued by that insurer which may apply to the claim  
65 presented by the claimant. If additional benefits might  
66 reasonably be payable upon receipt of additional proofs of  
67 claim, the insurer shall immediately communicate this fact to  
68 the insured and cooperate with and assist the insured in  
69 determining the extent of the insurer's additional liability.

70 (b) If the communication constitutes a notification of a  
71 claim, unless the acknowledgment reasonably advises the claimant  
72 that the claim appears not to be covered by the insurer, the  
73 acknowledgment must inform the claimant that, upon request, he  
74 or she may obtain copies of all claim-related documents. Within  
75 15 calendar days after receiving such request, the insurer shall  
76 provide the insured with copies of all claim-related documents  
77 shall provide necessary claim forms, and instructions, including  
78 an appropriate telephone number. This paragraph does not alter  
79 discovery rights in matters that are subject to litigation.

80 (4) Except where a claim has been settled by payment, an  
81 insurer must provide written notice of any statute of limitation  
82 or other time requirement upon which the insurer may rely to  
83 deny a claim.

84 (a) Such notice must be given to the claimant at least 60  
85 days before the expiration date. However, if the notice of claim  
86 is first received by the insurer within that 60 days, notice of  
87 the expiration date must be given to the claimant immediately.

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88 (b) With respect to a first party claimant in a matter  
89 involving an uninsured motorist, notice must be given at least  
90 30 days before the expiration date. However, if the notice of  
91 claim is first received by the insurer within that 30 days,  
92 notice of the expiration date must be given to the claimant  
93 immediately.

94 (c) This subsection does not apply to a claimant who is  
95 represented by counsel on the claim matter.

96 (5) ~~(3)~~ Unless otherwise provided by the policy of insurance  
97 or by law, within 10 working days after an insurer receives  
98 proof of loss statements, the insurer shall begin such  
99 investigation as is reasonably necessary unless the failure to  
100 begin such investigation is caused by factors beyond the control  
101 of the insurer which reasonably prevent the commencement of such  
102 investigation.

103 (6) If, within a 6-month period, the company assigns a  
104 third or subsequent adjuster to be primarily responsible for a  
105 claim, the insurer shall provide the insured with a written  
106 status report in a timely manner. The status report must include  
107 a summary of any decisions or actions that are substantially  
108 related to the disposition of a claim, including, but not  
109 limited to, the amount of losses to structures or contents, the  
110 retention or consultation of design or construction  
111 professionals, the amount of coverage for losses to structures  
112 or contents, and all items of dispute.

113 ~~(4) For purposes of this section, the term "insurer" means~~  
114 ~~any residential property insurer.~~

115 ~~(5) (a) Within 90 days after an insurer receives notice of~~  
116 ~~an initial, reopened, or supplemental property insurance claim~~

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117 ~~from a policyholder, the insurer shall pay or deny such claim or~~  
118 ~~a portion of the claim unless the failure to pay is caused by~~  
119 ~~factors beyond the control of the insurer which reasonably~~  
120 ~~prevent such payment. Any payment of an initial or supplemental~~  
121 ~~claim or portion of such claim made 90 days after the insurer~~  
122 ~~receives notice of the claim, or made more than 15 days after~~  
123 ~~there are no longer factors beyond the control of the insurer~~  
124 ~~which reasonably prevented such payment, whichever is later,~~  
125 ~~bears interest at the rate set forth in s. 55.03. Interest~~  
126 ~~begins to accrue from the date the insurer receives notice of~~  
127 ~~the claim. The provisions of this subsection may not be waived,~~  
128 ~~voided, or nullified by the terms of the insurance policy. If~~  
129 ~~there is a right to prejudgment interest, the insured shall~~  
130 ~~select whether to receive prejudgment interest or interest under~~  
131 ~~this subsection. Interest is payable when the claim or portion~~  
132 ~~of the claim is paid. Failure to comply with this subsection~~  
133 ~~constitutes a violation of this code. However, failure to comply~~  
134 ~~with this subsection does not form the sole basis for a private~~  
135 ~~cause of action.~~

136 ~~(b) Notwithstanding subsection (4), for purposes of this~~  
137 ~~subsection, the term "claim" means any of the following:~~

138 ~~1. A claim under an insurance policy providing residential~~  
139 ~~coverage as defined in s. 627.4025(1);~~

140 ~~2. A claim for structural or contents coverage under a~~  
141 ~~commercial property insurance policy if the insured structure is~~  
142 ~~10,000 square feet or less; or~~

143 ~~3. A claim for contents coverage under a commercial tenants~~  
144 ~~policy if the insured premises is 10,000 square feet or less.~~

145 ~~(c) This subsection shall not apply to claims under an~~

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146 ~~insurance policy covering nonresidential commercial structures~~  
147 ~~or contents in more than one state.~~

148 Section 2. Section 627.70133, Florida Statutes, is created  
149 to read:

150 627.70133 Payment of claims.—

151 (1) As used in this section, the term "claim" means:

152 (a) A claim under an insurance policy providing residential  
153 coverage as described in s. 627.4025(1);

154 (b) A claim for structural or contents coverage under a  
155 commercial property insurance policy if the insured structure is  
156 10,000 square feet or less; or

157 (c) A claim for contents coverage under a commercial  
158 tenants policy if the insured premises is 10,000 square feet or  
159 less.

160 (2) Within 90 days after an insurer receives notice of an  
161 initial, reopened, or supplemental property insurance claim from  
162 a policyholder, the insurer shall pay or deny such claim or a  
163 portion of the claim unless the failure to pay is caused by  
164 factors beyond the control of the insurer which reasonably  
165 prevent such payment. Payment of an initial or supplemental  
166 claim or portion of such claim made 90 days after the insurer  
167 receives notice of the claim, or more than 15 days after there  
168 are no longer factors beyond the control of the insurer which  
169 reasonably prevented such payment, whichever occurs later, bears  
170 interest at the rate set forth in s. 55.03. Interest begins to  
171 accrue from the date the insurer receives notice of the claim.  
172 If there is a right to prejudgment interest, the insured shall  
173 select whether to receive prejudgment interest or interest under  
174 this subsection. Interest is payable when the claim or portion

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175 of the claim is paid.

176 (3) The provisions of this section may not be waived,  
177 voided, or nullified by the terms of the insurance policy.  
178 Failure to comply with this section constitutes a violation of  
179 this code. However, failure to comply with this section does not  
180 form the sole basis for a private cause of action.

181 (4) This section does not apply to claims under an  
182 insurance policy covering nonresidential commercial structures  
183 or contents in more than one state.

184 Section 3. Section 627.70191, Florida Statutes, is created  
185 to read:

186 627.70191 Coverage for living expenses relating to a state  
187 of emergency.—In the event of a covered loss relating to a state  
188 of emergency that has been declared under s. 252.36, the period  
189 of coverage for additional living expenses shall be extended to  
190 24 months. However, any extension of time required under this  
191 section which is beyond the period provided in the policy does  
192 not increase the amount of the policy limit for additional  
193 living expenses which is in force at the time of the loss.

194 Section 4. Subsection (10) of section 627.062, Florida  
195 Statutes, is amended to read:

196 627.062 Rate standards.—

197 (10) Any interest paid pursuant to s. 627.70133  
198 ~~627.70131(5)~~ may not be included in the insurer's rate base and  
199 may not be used to justify a rate or rate change.

200 Section 5. This act shall take effect July 1, 2012.