

1 A bill to be entitled

2 An act relating to insurance; amending s. 627.351,
3 F.S.; requiring the Citizens Property Insurance
4 Corporation to create a pilot program to authorize the
5 corporation to indemnify certain policyholders for the
6 cost of mitigation of partial losses; providing
7 program requirements; amending s. 627.422, F.S.;
8 authorizing a property insurance policy to prohibit
9 the post-loss assignment of rights, benefits, causes
10 of action, or other contractual rights under the
11 policy; providing exceptions; creating s. 627.70115,
12 F.S.; providing that homeowners' insurance for roof
13 coverings for certain homes and mobile or manufactured
14 homes may be adjusted on the basis of actual cash
15 value; providing requirements; amending s. 627.706,
16 F.S.; providing for renewal of property insurance
17 policies; prohibits a contractor providing residential
18 roofing goods and services from advertising or
19 promising to pay or rebate all or part of any
20 applicable insurance deductible; providing
21 requirements relating to roofing goods and services
22 contracts; providing notice requirements; providing
23 requirements for the cancelation of the contract;
24 providing an effective date.

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

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Section 1. Paragraph (ii) is added to subsection (6) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(ii) The corporation shall establish a pilot program to enable a personal residential policyholder of the corporation to elect coverage that authorizes the corporation, at its own discretion, to indemnify the policyholder for the cost of mitigation of partial losses, including repairs, or directly arrange for mitigation or repair of the loss. A policyholder that elects coverage under the pilot program must be provided an actuarially reasonable premium credit or discount that reflects the expected cost savings associated with the coverage. The pilot program may not be used for partial losses caused by the peril of windstorm during a hurricane or for partial sinkhole losses. The corporation may enter into contracts with entities to implement and administer loss mitigation activities authorized under this paragraph. The pilot program shall be established in the county where the corporation experiences the highest loss ratios for perils other than windstorms or sinkholes.

Section 2. Section 627.422, Florida Statutes, is amended to read:

627.422 Assignment of policies; prohibition on the post-loss assignment of rights, benefits, causes of action, or other

53 contractual rights.—A policy may be assignable, or not
54 assignable, as provided by its terms.

55 (1) Subject to its terms relating to assignability, any
56 life or health insurance policy under the terms of which the
57 beneficiary may be changed upon the sole request of the
58 policyowner may be assigned either by pledge or transfer of
59 title, by an assignment executed by the policyowner alone and
60 delivered to the insurer, whether or not the pledgee or assignee
61 is the insurer. Any such assignment shall entitle the insurer to
62 deal with the assignee as the owner or pledgee of the policy in
63 accordance with the terms of the assignment, until the insurer
64 has received at its home office written notice of termination of
65 the assignment or pledge or written notice by or on behalf of
66 some other person claiming some interest in the policy in
67 conflict with the assignment.

68 (2) A property insurance policy may prohibit the post-loss
69 assignment of rights, benefits, causes of action, or other
70 contractual rights under the policy, except:

71 (a) An insured may assign the right for payment to a
72 person or entity providing services or materials to mitigate or
73 repair damage directly arising from a covered loss. The
74 assignment is limited solely to the right to be named as co-
75 payee for the benefit of payment for services rendered and
76 materials provided.

77 (b) For the limited purpose of compensating a public
78 adjuster for services authorized by s. 626.854(11).

79 (c) For the payment of attorney fees for representation of
 80 the insured.

81 (3) Except as provided in subsection (2), any post-loss
 82 assignment of rights, benefits, causes of action, or other
 83 contractual rights under a property insurance policy that
 84 prohibits such assignment renders the assignment void.

85 Section 3. Section 627.70115, Florida Statutes, is created
 86 to read:

87 627.70115 Homeowners' insurance; actual cash value for
 88 losses to roof covering.—

89 (1) For homeowners' insurance, notwithstanding s.
 90 627.7011, insurers other than the Citizens Property Insurance
 91 Corporation may issue a policy or endorsement, or renew a
 92 policy, providing that any loss relating to the property's roof
 93 covering that is repaired or replaced will be adjusted on the
 94 basis of actual cash value if the roof covering:

95 (a) Is constructed out of material other than tile, slate,
 96 clay, concrete, or metal.

97 (b) Is more than 20 but less than 25 years old.

98 (c) Has not been replaced within the previous 25 years.

99 (d) Has less than 3 years of remaining useful life as
 100 certified by a qualified inspector.

101 (2) For homeowners' insurance, notwithstanding s.
 102 627.7011, insurers other than the Citizens Property Insurance
 103 Corporation may issue a policy or endorsement, or renew a
 104 policy, providing that any loss relating to the property's roof

105 covering that is repaired or replaced will be adjusted on the
 106 basis of actual cash value if the roof covering:

107 (a) Is constructed out of tile, slate, clay, concrete or
 108 metal.

109 (b) Is more than 45 but less than 50 years old.

110 (c) Has not been replaced within the previous 50 year.

111 (d) Has less than 3 years of remaining useful life as
 112 certified by a qualified inspector.

113 (3) For homeowner's insurance, notwithstanding s.
 114 627.7011, insurers other than the Citizens Property Insurance
 115 Corporation may issue a policy or endorsement or renew a policy
 116 providing that any loss relating to a mobile or manufactured
 117 home's roof covering that is repaired or replaced will be
 118 adjusted on the basis of actual cash value if the roof covering:

119 (a) Is more than 20 but less than 25 years old.

120 (b) Has not been replaced within the previous 25 years.

121 (c) Has less than 3 years of remaining useful life as
 122 certified by a qualified inspector.

123 (4) An insurer may adjust losses relating to roof covering
 124 on the basis of actual cash value as specified in subsections
 125 (1), (2) or (3) only if the following conditions are met:

126 (a) The insurer nonrenews a policy that require losses
 127 relating to roof covering that is repaired or replaced to be
 128 adjusted at replacement cost and offers a new policy that
 129 requires these losses to be adjusted on the basis of actual cash
 130 value. The insurer cannot renew a property insurance policy

131 pursuant to s. 627.43141 to change the adjustment for losses
132 related to roof covering from a replacement cost basis to an
133 actual cash value basis.

134 (b) The policy including payment for losses related to
135 roof covering at actual cash value must, on its face, include in
136 boldfaced type no smaller than 18 points the following
137 statement:

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139 This policy pays actual cash value for any loss relating to
140 the roof covering. Payment of actual cash value for losses
141 relating to roof covering will not fully pay for the repair or
142 replacement of your roof if there is major roof damage. There
143 will be a significant difference between the insurance proceeds
144 paid to you by your insurer for the roof damage and the cost you
145 will incur to repair or replace your roof. Therefore, you may
146 pay significant out of pocket costs for roof repair or
147 replacement. Additionally, the insurer may require you, at your
148 expense, to fully repair or replace your roof in order for the
149 insurer to continue to provide property insurance on this
150 property.

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152 (c) The agent of record on the policy must obtain an
153 acknowledgment signed by the policyholder that the policyholder
154 has read and understands the disclosure required in paragraph
155 (b). This acknowledgment must be obtained at policy issuance and
156 at each renewal.

157 (d) An insurer issuing a policy requiring the insurer to
 158 adjust losses relating to roof covering on an actual cash basis
 159 must provide the policyholder an actuarially reasonable premium
 160 credit or discount that reflects the expected cost savings
 161 associated with this policy.

162 (e) If the structure insured by a property insurance
 163 policy that requires insurers to adjust losses to roof covering
 164 on the basis of actual cash value is subject to a mortgage or
 165 lien, the policyholder must provide the insurer with a written
 166 statement from the mortgageholder or lienholder indicating that
 167 the mortgageholder or lienholder approves the policyholder
 168 electing a property insurance policy that adjusts losses to the
 169 roof covering on an actual cash basis.

170 (5) For purposes of this section, a person is a qualified
 171 inspector if the person is:

172 (a) A general, residential, building, or roofing
 173 contractor licensed under chapter 489;

174 (b) A building inspector licensed under chapter 468;

175 (c) An architect licensed under chapter 481; or

176 (d) A building code enforcement official licensed under
 177 chapter 468.

178 Section 4. Subsection (4) of section 627.706, Florida
 179 Statutes, is amended to read:

180 627.706 Sinkhole insurance; catastrophic ground cover
 181 collapse; definitions.-

182 (4) An insurer offering sinkhole coverage to policyholders

183 before or after the adoption of s. 30, chapter 2007-1, Laws of
 184 Florida, may renew pursuant to s. 627.43141 or nonrenew the
 185 policies of policyholders maintaining sinkhole coverage at the
 186 option of the insurer, and provide an offer of coverage or
 187 renewal that includes catastrophic ground cover collapse and
 188 excludes sinkhole coverage. Insurers acting in accordance with
 189 this subsection are subject to the following requirements:

190 (a) Policyholders must be notified that the renewal or a
 191 nonrenewal is for purposes of removing sinkhole coverage, and
 192 that the policyholder is being offered a policy that provides
 193 coverage for catastrophic ground cover collapse.

194 (b) Policyholders must be provided an actuarially
 195 reasonable premium credit or discount for the removal of
 196 sinkhole coverage and provision of only catastrophic ground
 197 cover collapse.

198 (c) Subject to the provisions of this subsection and the
 199 insurer's approved underwriting or insurability guidelines, the
 200 insurer shall provide each policyholder with the opportunity to
 201 purchase an endorsement to his or her policy providing sinkhole
 202 coverage and may require an inspection of the property before
 203 issuance of a sinkhole coverage endorsement.

204 (d) Section 624.4305 does not apply to nonrenewal notices
 205 issued pursuant to this subsection.

206 Section 5. (1) (a) A contractor providing residential
 207 roofing goods and services may not advertise or promise to pay
 208 or rebate all or part of any applicable insurance deductible. If

209 a contractor violates this subsection, the contract between the
210 contractor and the person or entity is null and void.

211 (b) A promise to rebate any portion of an insurance
212 deductible includes granting any allowance or offering any
213 discount against the fees to be charged or paying an insured or
214 a person directly or indirectly associated with the residential
215 real estate any form of compensation except for an item of
216 nominal value.

217 (2) An insured person who has entered into a written
218 contract with a contractor to provide roofing goods and services
219 to be paid by the insured person from the proceeds of a property
220 or casualty insurance policy has the right to cancel the
221 contract within three business days after the insured person has
222 received notice in writing from the insurer that the claim has
223 been denied, in whole or in part. Cancellation is evidenced by
224 the insured person giving written notice of cancellation to the
225 contractor at the address stated in the contract. Notice of
226 cancellation, if given by mail, is effective upon deposit in a
227 mailbox, properly addressed to the contractor and postage
228 prepaid. Notice of cancellation need not take a particular form
229 and is sufficient if it indicates, by any form of written
230 expression, the intention of the insured not to be bound by the
231 contract. Before entering into a contract, the contractor must:

232 (a) Provide the insured with a statement in boldface type
233 no smaller than 10 points, in substantially the following form:
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235 You may cancel this contract at any time within three
 236 business days after you have been notified that your insurer has
 237 in whole or part, denied our claim to pay for the goods and
 238 services to be provided under this contract. See attached notice
 239 of cancellation form for an explanation of this right.

241 (b) Furnish each insured a fully completed form in
 242 duplicate, captioned, "NOTICE OF CANCELLATION," which shall be
 243 attached to the contract and easily detachable, and which shall
 244 contain in boldface type, no smaller than 10 points, the
 245 following:

247 NOTICE OF CANCELLATION

249 If your insurer, in whole or in part, denies your claim to pay
 250 for goods and services to be provided under this contract, you
 251 may cancel the contract by mailing or delivering a signed and
 252 dated copy of this cancellation notice or any other written
 253 notice to ... (name of contractor) ... at ... (address of
 254 contractor's place of business) ... at any time within three
 255 business days after you have been notified that your claim has
 256 been denied. If you cancel, any payments made by you under the
 257 contract, except payments made for emergency services, will be
 258 returned within ten business days following receipt by the
 259 contractor of your cancellation notice.

261 I HEREBY CANCEL THIS TRANSACTION.

262

263 ...(date)...

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265 ...(Insured's signature)...

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267 (c) Within 10 days after a contract has been canceled, the
 268 contractor must refund the insured any payments made by the
 269 insured and any note or other evidence of indebtedness. However,
 270 if the contractor has performed any emergency services, the
 271 contractor is entitled to reasonable compensation for such
 272 services if the insured has received a detailed description and
 273 itemization of charges for those services.

274 Section 6. This act shall take effect July 1, 2014.