

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Nelson offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (9) of section 627.3518, Florida
6 Statutes, is amended to read:

7 627.3518 Citizens Property Insurance Corporation
8 policyholder eligibility clearinghouse program.—The purpose of
9 this section is to provide a framework for the corporation to
10 implement a clearinghouse program by January 1, 2014.

11 (9) The 45-day notice of nonrenewal requirement set forth
12 in s. 627.4133(2)(b)5.b. ~~s. 627.4133(2)(b)4.b.~~ applies when a
13 policy is nonrenewed by the corporation because the risk has

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

14 received an offer of coverage pursuant to this section which
15 renders the risk ineligible for coverage by the corporation.

16 Section 2. Section 627.409, Florida Statutes, is amended
17 to read:

18 627.409 Representations in applications; warranties.—

19 (1) Any statement or description made by or on behalf of
20 an insured or annuitant in an application for an insurance
21 policy or annuity contract, or in negotiations for a policy or
22 contract, is a representation and ~~is~~ not a warranty. Except as
23 provided in subsection (3), a misrepresentation, omission,
24 concealment of fact, or incorrect statement may prevent recovery
25 under the contract or policy only if any of the following apply:

26 (a) The misrepresentation, omission, concealment, or
27 statement is fraudulent or is material ~~either~~ to the acceptance
28 of the risk or to the hazard assumed by the insurer.

29 (b) If the true facts had been known to the insurer
30 pursuant to a policy requirement or other requirement, the
31 insurer in good faith would not have issued the policy or
32 contract, would not have issued it at the same premium rate,
33 would not have issued a policy or contract in as large an
34 amount, or would not have provided coverage with respect to the
35 hazard resulting in the loss.

36 (2) A breach or violation by the insured of a any
37 warranty, condition, or provision of a any wet marine or
38 transportation insurance policy, contract of insurance,
39 endorsement, or application ~~therefor~~ does not void the policy or

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

40 contract, or constitute a defense to a loss thereon, unless such
41 breach or violation increased the hazard by any means within the
42 control of the insured.

43 (3) For residential property insurance, if a policy or
44 contract is in effect for more than 90 days, a claim filed by
45 the insured may not be denied based on credit information
46 available in public records.

47 Section 3. Paragraph (b) of subsection (2) of section
48 627.4133, Florida Statutes, is amended to read:

49 627.4133 Notice of cancellation, nonrenewal, or renewal
50 premium.—

51 (2) With respect to any personal lines or commercial
52 residential property insurance policy, including, but not
53 limited to, any homeowner's, mobile home owner's, farmowner's,
54 condominium association, condominium unit owner's, apartment
55 building, or other policy covering a residential structure or
56 its contents:

57 (b) The insurer shall give the first-named insured written
58 notice of nonrenewal, cancellation, or termination at least 100
59 days before the effective date of the nonrenewal, cancellation,
60 or termination. However, the insurer shall give at least 100
61 days' written notice, or written notice by June 1, whichever is
62 earlier, for any nonrenewal, cancellation, or termination that
63 would be effective between June 1 and November 30. The notice
64 must include the reason ~~or reasons~~ for the nonrenewal,
65 cancellation, or termination, except that:

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

66 1. The insurer shall give the first-named insured written
67 notice of nonrenewal, cancellation, or termination at least 120
68 days before ~~prior to~~ the effective date of the nonrenewal,
69 cancellation, or termination for a first-named insured whose
70 residential structure has been insured by that insurer or an
71 affiliated insurer for at least 5 years before ~~a 5-year period~~
72 ~~immediately prior to~~ the date of the written notice.

73 2. If cancellation is for nonpayment of premium, at least
74 10 days' written notice of cancellation accompanied by the
75 reason therefor must be given. As used in this subparagraph, the
76 term "nonpayment of premium" means failure of the named insured
77 to discharge when due her or his obligations for paying the
78 premium ~~in connection with the payment of premiums~~ on a policy
79 or an ~~any~~ installment of such premium, whether the premium is
80 payable directly to the insurer or its agent or indirectly under
81 a ~~any~~ premium finance plan or extension of credit, or failure to
82 maintain membership in an organization if such membership is a
83 condition precedent to insurance coverage. The term also means
84 the failure of a financial institution to honor an insurance
85 applicant's check after delivery to a licensed agent for payment
86 of a premium, even if the agent has previously delivered or
87 transferred the premium to the insurer. If a dishonored check
88 represents the initial premium payment, the contract and all
89 contractual obligations are void ab initio unless the nonpayment
90 is cured within the earlier of 5 days after actual notice by
91 certified mail is received by the applicant or 15 days after

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

92 notice is sent to the applicant by certified mail or registered
93 mail. ~~and~~ If the contract is void, any premium received by the
94 insurer from a third party must be refunded to that party in
95 full.

96 3. If ~~such~~ cancellation or termination occurs during the
97 first 90 days the insurance is in force and the insurance is
98 canceled or terminated for reasons other than nonpayment of
99 premium, at least 20 days' written notice of cancellation or
100 termination accompanied by the reason therefor must be given
101 unless there has been a material misstatement or
102 misrepresentation or a failure to comply with the underwriting
103 requirements established by the insurer.

104 4. After a policy or contract is in effect for 90 days,
105 the insurer may not cancel or terminate the policy or contract
106 based on credit information available in public records.

107 ~~5.4.~~ The requirement for providing written notice by June
108 1 of any nonrenewal that would be effective between June 1 and
109 November 30 does not apply to the following situations, but the
110 insurer remains subject to the requirement to provide such
111 notice at least 100 days before the effective date of
112 nonrenewal:

113 a. A policy that is nonrenewed due to a revision in the
114 coverage for sinkhole losses and catastrophic ground cover
115 collapse pursuant to s. 627.706.

116 b. A policy that is nonrenewed by Citizens Property
117 Insurance Corporation, pursuant to s. 627.351(6), for a policy

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

118 that has been assumed by an authorized insurer offering
119 replacement coverage to the policyholder is exempt from the
120 notice requirements of paragraph (a) and this paragraph. In such
121 cases, the corporation must give the named insured written
122 notice of nonrenewal at least 45 days before the effective date
123 of the nonrenewal.

124

125 After the policy has been in effect for 90 days, the policy may
126 not be canceled by the insurer unless there has been a material
127 misstatement, a nonpayment of premium, a failure to comply with
128 underwriting requirements established by the insurer within 90
129 days after the date of effectuation of coverage, ~~or~~ a
130 substantial change in the risk covered by the policy, or ~~if~~ the
131 cancellation is for all insureds under such policies for a given
132 class of insureds. This paragraph does not apply to individually
133 rated risks that have ~~having~~ a policy term of less than 90 days.

134 ~~6.5.~~ Notwithstanding any other provision of law, an
135 insurer may cancel or nonrenew a property insurance policy after
136 at least 45 days' notice if the office finds that the early
137 cancellation of some or all of the insurer's policies is
138 necessary to protect the best interests of the public or
139 policyholders and the office approves the insurer's plan for
140 early cancellation or nonrenewal of some or all of its policies.
141 The office may base such finding upon the financial condition of
142 the insurer, lack of adequate reinsurance coverage for hurricane
143 risk, or other relevant factors. The office may condition its

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

144 finding on the consent of the insurer to be placed under
145 administrative supervision pursuant to s. 624.81 or to the
146 appointment of a receiver under chapter 631.

147 ~~7.6.~~ A policy covering both a home and a motor vehicle may
148 be nonrenewed for any reason applicable to ~~either~~ the property
149 or motor vehicle insurance after providing 90 days' notice.

150 Section 4. Paragraph (b) of subsection (4) of section
151 627.7015, Florida Statutes, is amended to read:

152 627.7015 Alternative procedure for resolution of disputed
153 property insurance claims.—

154 (4) The department shall adopt by rule a property
155 insurance mediation program to be administered by the department
156 or its designee. The department may also adopt special rules
157 which are applicable in cases of an emergency within the state.
158 The rules shall be modeled after practices and procedures set
159 forth in mediation rules of procedure adopted by the Supreme
160 Court. The rules shall provide for:

161 (b) Qualifications, denial of application, suspension,
162 revocation of approval, and other penalties for ~~of~~ mediators as
163 provided in s. 627.745 and ~~in~~ the Florida Rules for ~~of~~ Certified
164 and Court-Appointed ~~Court-Appointed~~ Mediators, ~~and for such~~
165 ~~other individuals as are qualified by education, training, or~~
166 ~~experience as the department determines to be appropriate.~~

167 Section 5. Section 627.70151, Florida Statutes, is created
168 to read:

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

169 627.70151 Appraisal; conflicts of interest.—An insurer
170 that offers residential coverage, as defined in s. 627.4025, or
171 a policyholder that uses an appraisal clause in a property
172 insurance contract to establish a process of estimating or
173 evaluating the amount of loss through the use of an impartial
174 umpire may challenge an umpire's impartiality and disqualify the
175 proposed umpire only if:

176 (1) A familial relationship within the third degree exists
177 between the umpire and any party or a representative of any
178 party;

179 (2) The umpire has previously represented any party in a
180 professional capacity in the same claim or matter involving the
181 same property;

182 (3) The umpire has represented another person in a
183 professional capacity on the same or a substantially related
184 matter, which includes the claim, same property, or an adjacent
185 property and that other person's interests are materially
186 adverse to the interests of any party; or

187 (4) The umpire has worked as an employer or employee of
188 any party within the preceding 5 years.

189 Section 6. Paragraphs (c) and (f) of subsection (2) of
190 section 627.706, Florida Statutes, are amended to read:

191 627.706 Sinkhole insurance; catastrophic ground cover
192 collapse; definitions.—

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

193 (2) As used in ss. 627.706-627.7074, and as used in
194 connection with any policy providing coverage for a catastrophic
195 ground cover collapse or for sinkhole losses, the term:

196 (c) "Neutral evaluator" means an ~~a professional~~ engineer
197 licensed under chapter 471 with experience and expertise in the
198 identification of sinkhole activity as well as other potential
199 causes of structural damage or a professional geologist. The
200 engineer or professional geologist must have ~~who has~~ completed a
201 course of study in alternative dispute resolution designed or
202 approved by the department for use in the neutral evaluation
203 process, must be ~~and who is~~ determined by the department to be
204 fair and impartial, and must not be otherwise ineligible for
205 certification as provided in s. 627.7074.

206 (f) "Professional engineer" means a person, as defined in
207 s. 471.005, who has a bachelor's degree or higher in
208 engineering. A professional engineer must also have experience
209 and expertise in the identification of sinkhole activity or ~~as~~
210 ~~well as~~ other potential causes of structural damage.

211 Section 7. Subsections (7) and (18) of section 627.7074,
212 Florida Statutes, are amended to read:

213 627.7074 Alternative procedure for resolution of disputed
214 sinkhole insurance claims.-

215 (7) Upon receipt of a request for neutral evaluation, the
216 department shall provide the parties a list of certified neutral
217 evaluators. The department shall allow the parties to submit
218 requests to disqualify evaluators on the list for cause.

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

219 (a) The department shall disqualify neutral evaluators for
220 cause based only on any of the following grounds:

221 1. A familial relationship exists between the neutral
222 evaluator and either party or a representative of either party
223 within the third degree.

224 2. The proposed neutral evaluator has, in a professional
225 capacity, previously represented either party or a
226 representative of either party, in the same or a substantially
227 related matter.

228 3. The proposed neutral evaluator has, in a professional
229 capacity, represented another person in the same or a
230 substantially related matter and that person's interests are
231 materially adverse to the interests of the parties. The term
232 "substantially related matter" means participation by the
233 neutral evaluator on the same claim, property, or adjacent
234 property.

235 4. The proposed neutral evaluator has, within the
236 preceding 5 years, worked as an employer or employee of any
237 party to the case.

238 (b) The department shall deny an application, or suspend
239 or revoke its certification, of a neutral evaluator to serve in
240 such capacity if the department finds that one or more of the
241 following grounds exist:

242 1. Lack of one or more of the qualifications for
243 certification specified in this section.

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

244 2. Material misstatement, misrepresentation, or fraud in
245 obtaining or attempting to obtain the certification.

246 3. Demonstrated lack of fitness or trustworthiness to act
247 as a neutral evaluator.

248 4. Fraudulent or dishonest practices in the conduct of an
249 evaluation or in the conduct of business in the financial
250 services industry.

251 5. Violation of any provision of this code or of a lawful
252 order or rule of the department or aiding, instructing, or
253 encouraging another party to commit such a violation.

254 (c)~~(b)~~ The parties shall appoint a neutral evaluator from
255 the department list and promptly inform the department. If the
256 parties cannot agree to a neutral evaluator within 14 business
257 days, the department shall appoint a neutral evaluator from the
258 list of certified neutral evaluators. The department shall allow
259 each party to disqualify two neutral evaluators without cause.
260 Upon selection or appointment, the department shall promptly
261 refer the request to the neutral evaluator.

262 (d)~~(e)~~ Within 14 business days after ~~the~~ referral, the
263 neutral evaluator shall notify the policyholder and the insurer
264 of the date, time, and place of the neutral evaluation
265 conference. The conference may be held by telephone, if feasible
266 and desirable. The neutral evaluator shall make reasonable
267 efforts to hold the conference within 90 days after the receipt
268 of the request by the department. Failure of the neutral
269 evaluator to hold the conference within 90 days does not

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

270 invalidate either party's right to neutral evaluation or to a
271 neutral evaluation conference held outside this timeframe.

272 (18) The department shall adopt rules of procedure for the
273 neutral evaluation process and adopt rules for certifying,
274 denying certification of, suspending certification of, and
275 revoking the certification of a neutral evaluator.

276 Section 8. Effective October 1, 2014, section 627.7142,
277 Florida Statutes, is created to read:

278 627.7142 Homeowner Claims Bill of Rights.-An insurer
279 issuing a personal lines residential property insurance policy
280 in this state must provide a Homeowner Claims Bill of Rights to
281 a policyholder within 14 days after receiving an initial
282 communication with respect to a claim, unless the claim follows
283 an event that is the subject of a declaration of a state of
284 emergency by the Governor. The purpose of the bill of rights is
285 to summarize, in simple, nontechnical terms, existing Florida
286 law regarding the rights of a personal lines residential
287 property insurance policyholder who files a claim of loss. The
288 Homeowner Claims Bill of Rights is specific to the claims
289 process and does not represent all of a policyholder's rights
290 under Florida law regarding the insurance policy. The Homeowner
291 Claims Bill of Rights does not create a civil cause of action by
292 any individual policyholder or class of policyholders against an
293 insurer or insurers. The failure of an insurer to properly
294 deliver the Homeowner Claims Bill of Rights is subject to
295 administrative enforcement by the office, but is not admissible

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

296 as evidence in any civil action against an insurer. The
297 Homeowner Claims Bill of Rights does not enlarge, modify, or
298 contravene statutory requirements, including, but not limited
299 to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074.
300 The Homeowner Claims Bill of Rights does not prohibit an insurer
301 from exercising its right to repair damaged property in
302 compliance with the terms of an applicable policy or ss.
303 627.7011(5)(e) and 627.702(7). The Homeowner Claims Bill of
304 Rights shall state:

305
306 HOMEOWNER CLAIMS BILL OF RIGHTS

307 This Bill of Rights is specific to the claims process
308 and does not represent all of your rights under
309 Florida law regarding your policy. There are also
310 exceptions to the stated timelines when conditions are
311 beyond your insurance company's control. This document
312 does not create a civil cause of action by an
313 individual policyholder, or a class of policyholders,
314 against an insurer or insurers and does not prohibit
315 an insurer from exercising its right to repair damaged
316 property in compliance with the terms of an applicable
317 policy.

318
319 YOU HAVE THE RIGHT TO:

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

- 320 1. Receive from your insurance company an
321 acknowledgment of your reported claim within 14 days
322 after the time you communicated the claim.
- 323 2. Upon written request, receive from your insurance
324 company, within 30 days after you have submitted a
325 complete proof-of-loss statement to your insurance
326 company, confirmation that your claim is covered in
327 full, partially covered, or denied or receive a
328 written statement that your claim is being
329 investigated.
- 330 3. Within 90 days, subject to any dual interest noted
331 in the policy, receive full settlement payment for
332 your claim, payment of the undisputed portion of your
333 claim, or your insurance company's denial of your
334 claim.
- 335 4. Free mediation of your disputed claim by the
336 Florida Department of Financial Services Division of
337 Consumer Services under most circumstances and subject
338 to certain restrictions.
- 339 5. Neutral evaluation of your disputed claim, if your
340 claim is for damage caused by a sinkhole and is
341 covered by your policy.
- 342 6. Contact the Florida Department of Financial
343 Services Division of Consumer Services' toll-free
344 helpline for assistance with any insurance claim or
345 questions pertaining to the handling of your claim.

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

346 You can reach the helpline by telephone at ... (toll
347 free telephone number) ..., or you can seek assistance
348 online at the Florida Department of Financial Services
349 Division of Consumer Services' website at ... (website
350 address)

351
352 YOU ARE ADVISED TO:

- 353 1. Contact your insurance company before entering
354 into any contract for repairs to confirm any managed
355 repair policy provisions or optional preferred
356 vendors.
- 357 2. Make and document emergency repairs that are
358 necessary to prevent further damage. Keep the damaged
359 property, if feasible, keep all receipts, and take
360 photographs of damage before and after repairs.
- 361 3. Carefully read any contract that requires you to
362 pay out-of-pocket expenses or a fee that is based on a
363 percentage of the insurance proceeds that you will
364 receive for repairing or replacing your property.
- 365 4. Confirm that the contractor you choose is licensed
366 to do business in Florida. You can verify a
367 contractor's license and check to see if there are any
368 complaints against him or her by calling the Florida
369 Department of Business and Professional Regulation.
370 You should also ask the contractor for references from
371 previous work.

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

- 372 5. Require all contractors to provide proof of
373 insurance before beginning repairs.
- 374 6. Take precautions if the damage requires you to
375 leave your home, including securing your property and
376 turning off your gas, water, and electricity, and
377 contacting your insurance company and provide a
378 telephone number where you can be reached.

379

380 Section 9. Section 627.715, Florida Statutes, is created
381 to read:

382 627.715 Emergency mitigation services; agreements.—

383 (1) As used in this section, the term "emergency
384 mitigation services" means the delivery of goods or services
385 that are needed to mitigate damage caused by fire, water, or
386 catastrophic events when delay may exacerbate the damage to the
387 covered property. Services include the removal of contents,
388 removal of water or other contaminants, cleaning, sanitizing,
389 incidental demolition, or other treatment, including preventive
390 activities.

391 (2) For residential property insurance, an agreement for
392 emergency mitigation services to which insurance proceeds may be
393 applied is valid only if:

394 (a) The agreement entered into by the policyholder
395 complies with any managed repair or preferred vendor policy
396 provisions;

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

397 (b) The agreement specifies in writing the estimated scope
398 and price of the work before it is performed;

399 (c) Any change from the original estimated scope and price
400 of the work is preapproved by the policyholder; and

401 (d) The work is performed by an individual or company
402 possessing a valid certification consistent with the most recent
403 Standard and Reference Guide for Professional Water Damage
404 Restoration, as developed by the Institute of Inspection,
405 Cleaning and Restoration Certification and approved by the
406 American National Standards Institute, or by a company that
407 possesses a valid Division I license under chapter 489, which is
408 providing services within the scope of that license. A company
409 is considered to be certified for purposes of this paragraph if
410 the company representative who possesses a valid certification
411 personally supervises the emergency mitigation services
412 performed.

413 Section 10. Except as otherwise expressly provided in this
414 act, this act shall take effect July 1, 2014.

415
416 -----

417 **T I T L E A M E N D M E N T**

418 Remove everything before the enacting clause and insert:

419 A bill to be entitled

420 An act relating to property insurance; amending s.

421 627.3518, F.S.; conforming a cross-reference; amending

422 s. 627.409, F.S.; providing that a claim for

949071

Approved For Filing: 4/29/2014 9:50:40 AM

Amendment No.

423 residential property insurance cannot be denied based
424 on certain credit information; amending s. 627.4133,
425 F.S.; providing that a policy or contract may not be
426 cancelled based on certain credit information;
427 amending s. 627.7015, F.S.; revising the rule
428 requirements relating to the property insurance
429 mediation program administered by the Department of
430 Financial Services; creating s. 627.70151, F.S.;
431 providing grounds for challenging an umpire's
432 impartiality in estimating the amount of a property
433 loss; amending s. 627.706, F.S.; redefining the term
434 "neutral evaluator"; amending s. 627.7074, F.S.;
435 specifying grounds for denying, suspending, or
436 revoking approval of a neutral evaluator; creating s.
437 627.7142, F.S.; establishing a Homeowner Claims Bill
438 of Rights for personal lines residential property
439 insurance policyholders; providing that such bill of
440 rights does not provide a cause of action; creating s.
441 627.715, F.S.; defining terms; providing requirements
442 for emergency mitigation repair agreements; requiring
443 an emergency mitigation contractor to be appropriately
444 certified or to possess a contracting license;
445 providing effective dates.

949071

Approved For Filing: 4/29/2014 9:50:40 AM