

By the Committee on Banking and Insurance; and Senator Bean

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1 A bill to be entitled
2 An act relating to insurance claims; amending s.
3 626.601, F.S.; adding mediators and neutral evaluators
4 to the list of individuals or entities that the
5 Department of Financial Services or the Office of
6 Insurance Regulation may investigate for alleged
7 improper conduct; amending s. 627.3518, F.S.;
8 conforming a cross-reference; amending s. 627.409,
9 F.S.; providing that a claim for residential property
10 insurance cannot be denied based on certain credit
11 information; amending s. 627.4133, F.S.; providing
12 that a policy or contract be cancelled based on
13 certain credit information; amending s. 627.422, F.S.;
14 providing for the assignment of property insurance
15 policy benefits; specifying requirements for the
16 assignment of post-loss benefits in a valid agreement
17 for services; amending s. 627.7015, F.S.; revising the
18 rule requirements relating to the property insurance
19 mediation program administered by the department;
20 creating s. 627.70151, F.S.; providing grounds for
21 challenging an umpire's impartiality in estimating the
22 amount of a property loss; amending s. 627.706, F.S.;
23 redefining the term "neutral evaluator"; amending s.
24 627.7074, F.S.; specifying grounds for denying,
25 suspending, or revoking approval of a neutral
26 evaluator; creating s. 627.7142, F.S.; establishing a
27 Claims Bill of Rights for residential property
28 insurance policyholders; providing that such bill of
29 rights does not provide a cause of action; creating s.

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30 627.715, F.S.; defining terms; providing requirements
31 for emergency mitigation repair agreements; requiring
32 an emergency mitigation contractor to be appropriately
33 certified or to possess a contracting license;
34 amending s. 627.745, F.S.; revising qualifications for
35 mediators of personal injury claims; providing grounds
36 for denying, suspending, or revoking the application
37 or approval of a mediator; providing an effective
38 date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Section 626.601, Florida Statutes, is amended to
43 read:

44 626.601 Improper conduct; investigation inquiry;
45 ~~fingerprinting~~.—

46 (1) The department or office may, upon its own motion or
47 upon a written complaint signed by an ~~any~~ interested person and
48 filed with the department or office, inquire into the ~~any~~
49 alleged improper conduct of an approved, certified, or ~~any~~
50 licensed insurance agency, agent, adjuster, service
51 representative, managing general agent, customer representative,
52 title insurance agent, title insurance agency, mediator, neutral
53 evaluator, continuing education course provider, instructor,
54 school official, or monitor group under this code. The
55 department or office may thereafter initiate an investigation of
56 ~~any~~ such individual or entity ~~licensee~~ if it has reasonable
57 cause to believe that the individual or entity ~~licensee~~ has
58 violated any provision of the insurance code. During the course

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59 of its investigation, the department or office shall contact the
60 individual or entity licensee being investigated unless it
61 determines that contacting such individual or entity person
62 could jeopardize the successful completion of the investigation
63 or cause injury to the public.

64 (2) In the investigation by the department or office of the
65 alleged misconduct, the individual or entity licensee shall, if
66 ~~whenever so~~ required by the department or office, open the
67 individual's or entity's ~~cause his or her~~ books and records ~~to~~
68 ~~be open~~ for inspection ~~for the purpose of such inquiries.~~

69 (3) ~~The~~ Complaints against an individual or entity any
70 licensee may be informally alleged and are not required to
71 include language ~~need not be in any such language as is~~
72 necessary to charge a crime on an indictment or information.

73 (4) The expense for ~~any~~ hearings or investigations
74 conducted pursuant to ~~under~~ this section law, as well as the
75 fees and mileage of witnesses, may be paid out of the
76 appropriate fund.

77 (5) If ~~the department or office~~, after investigation, the
78 department or office has reason to believe that an individual a
79 licensee may have been found guilty of or pleaded guilty or nolo
80 contendere to a felony or a crime related to the business of
81 insurance in this or any other state or jurisdiction, the
82 department or office may require the individual licensee to file
83 with the department or office a complete set of his or her
84 fingerprints, ~~which shall be~~ accompanied by the fingerprint
85 processing fee specified ~~set forth~~ in s. 624.501. The
86 fingerprints must ~~shall~~ be taken by an authorized law
87 enforcement agency or other department-approved entity.

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88 (6) The complaint and ~~any~~ information obtained pursuant to
89 the investigation by the department or office are confidential
90 and ~~are exempt from the provisions of~~ s. 119.07, unless the
91 department or office files a formal administrative complaint,
92 emergency order, or consent order against the individual or
93 entity licensee. ~~Nothing in~~ This subsection does not shall be
94 ~~construed to~~ prevent the department or office from disclosing
95 the complaint or such information as it deems necessary to
96 conduct the investigation, to update the complainant as to the
97 status and outcome of the complaint, or to share such
98 information with a ~~any~~ law enforcement agency or other
99 regulatory body.

100 Section 2. Subsection (9) of section 627.3518, Florida
101 Statutes, is amended to read:

102 627.3518 Citizens Property Insurance Corporation
103 policyholder eligibility clearinghouse program.—The purpose of
104 this section is to provide a framework for the corporation to
105 implement a clearinghouse program by January 1, 2014.

106 (9) The 45-day notice of nonrenewal requirement set forth
107 in s. 627.4133(2)(b)5.b. ~~s. 627.4133(2)(b)4.b.~~ applies when a
108 policy is nonrenewed by the corporation because the risk has
109 received an offer of coverage pursuant to this section which
110 renders the risk ineligible for coverage by the corporation.

111 Section 3. Section 627.409, Florida Statutes, is amended to
112 read:

113 627.409 Representations in applications; warranties.—

114 (1) Any statement or description made by or on behalf of an
115 insured or annuitant in an application for an insurance policy
116 or annuity contract, or in negotiations for a policy or

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117 contract, is a representation and ~~is~~ not a warranty. Except as
118 provided in subsection (3), a misrepresentation, omission,
119 concealment of fact, or incorrect statement may prevent recovery
120 under the contract or policy only if any of the following apply:

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

124 (b) If the true facts had been known to the insurer
125 pursuant to a policy requirement or other requirement, the
126 insurer in good faith would not have issued the policy or
127 contract, would not have issued it at the same premium rate,
128 would not have issued a policy or contract in as large an
129 amount, or would not have provided coverage with respect to the
130 hazard resulting in the loss.

131 (2) A breach or violation by the insured of a ~~any~~ warranty,
132 condition, or provision of a ~~any~~ wet marine or transportation
133 insurance policy, contract of insurance, endorsement, or
134 application ~~therefor~~ does not void the policy or contract, or
135 constitute a defense to a loss thereon, unless such breach or
136 violation increased the hazard by any means within the control
137 of the insured.

138 (3) For residential property insurance, if a policy or
139 contract has been in effect for more than 90 days, a claim filed
140 by the insured cannot be denied based on credit information
141 available in public record.

142 Section 4. Paragraph (b) of subsection (2) of section
143 627.4133, Florida Statutes, is amended to read:

144 627.4133 Notice of cancellation, nonrenewal, or renewal
145 premium.—

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146 (2) With respect to any personal lines or commercial
147 residential property insurance policy, including, but not
148 limited to, any homeowner's, mobile home owner's, farmowner's,
149 condominium association, condominium unit owner's, apartment
150 building, or other policy covering a residential structure or
151 its contents:

152 (b) The insurer shall give the first-named insured written
153 notice of nonrenewal, cancellation, or termination at least 100
154 days before the effective date of the nonrenewal, cancellation,
155 or termination. However, the insurer shall give at least 100
156 days' written notice, or written notice by June 1, whichever is
157 earlier, for any nonrenewal, cancellation, or termination that
158 would be effective between June 1 and November 30. The notice
159 must include the reason ~~or reasons~~ for the nonrenewal,
160 cancellation, or termination, except that:

161 1. The insurer shall give the first-named insured written
162 notice of nonrenewal, cancellation, or termination at least 120
163 days before ~~prior to~~ the effective date of the nonrenewal,
164 cancellation, or termination for a first-named insured whose
165 residential structure has been insured by that insurer or an
166 affiliated insurer for at least 5 years before ~~a 5-year period~~
167 ~~immediately prior to~~ the date of the written notice.

168 2. If cancellation is for nonpayment of premium, at least
169 10 days' written notice of cancellation accompanied by the
170 reason therefor must be given. As used in this subparagraph, the
171 term "nonpayment of premium" means failure of the named insured
172 to discharge when due her or his obligations for paying the
173 premium ~~in connection with the payment of premiums~~ on a policy
174 or an ~~any~~ installment of such premium, whether the premium is

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175 payable directly to the insurer or its agent or indirectly under
176 a any premium finance plan or extension of credit, or failure to
177 maintain membership in an organization if such membership is a
178 condition precedent to insurance coverage. The term also means
179 the failure of a financial institution to honor an insurance
180 applicant's check after delivery to a licensed agent for payment
181 of a premium, ~~even if the agent has previously delivered or~~
182 ~~transferred the premium to the insurer. If a dishonored check~~
183 ~~represents the initial premium payment, the contract and all~~
184 ~~contractual obligations are void ab initio unless the nonpayment~~
185 ~~is cured within the earlier of 5 days after actual notice by~~
186 ~~certified mail is received by the applicant or 15 days after~~
187 ~~notice is sent to the applicant by certified mail or registered~~
188 ~~mail.~~ ~~and~~ If the contract is void, any premium received by the
189 insurer from a third party must be refunded to that party in
190 full.

191 3. If ~~such~~ cancellation or termination occurs during the
192 first 90 days the insurance is in force and the insurance is
193 canceled or terminated for reasons other than nonpayment of
194 premium, at least 20 days' written notice of cancellation or
195 termination accompanied by the reason therefor must be given
196 unless there has been a material misstatement or
197 misrepresentation or a failure to comply with the underwriting
198 requirements established by the insurer.

199 4. After a policy or contract has been in effect for more
200 than 90 days, the insurer may not cancel or terminate the policy
201 or contract based on credit information available in public
202 records.

203 5.4. The requirement for providing written notice by June 1

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204 of any nonrenewal that would be effective between June 1 and
205 November 30 does not apply to the following situations, but the
206 insurer remains subject to the requirement to provide such
207 notice at least 100 days before the effective date of
208 nonrenewal:

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

212 b. A policy that is nonrenewed by Citizens Property
213 Insurance Corporation, pursuant to s. 627.351(6), for a policy
214 that has been assumed by an authorized insurer offering
215 replacement coverage to the policyholder is exempt from the
216 notice requirements of paragraph (a) and this paragraph. In such
217 cases, the corporation must give the named insured written
218 notice of nonrenewal at least 45 days before the effective date
219 of the nonrenewal.

220

221 After the policy has been in effect for 90 days, the policy may
222 not be canceled by the insurer unless there has been a material
223 misstatement, a nonpayment of premium, a failure to comply with
224 underwriting requirements established by the insurer within 90
225 days after the date of effectuation of coverage, ~~or~~ a
226 substantial change in the risk covered by the policy, or ~~if~~ the
227 cancellation is for all insureds under such policies for a given
228 class of insureds. This paragraph does not apply to individually
229 rated risks that have ~~having~~ a policy term of less than 90 days.

230 ~~6.5-~~ Notwithstanding any other provision of law, an insurer
231 may cancel or nonrenew a property insurance policy after at
232 least 45 days' notice if the office finds that the early

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233 cancellation of some or all of the insurer's policies is
234 necessary to protect the best interests of the public or
235 policyholders and the office approves the insurer's plan for
236 early cancellation or nonrenewal of some or all of its policies.
237 The office may base such finding upon the financial condition of
238 the insurer, lack of adequate reinsurance coverage for hurricane
239 risk, or other relevant factors. The office may condition its
240 finding on the consent of the insurer to be placed under
241 administrative supervision pursuant to s. 624.81 or to the
242 appointment of a receiver under chapter 631.

243 ~~7.6.~~ A policy covering both a home and a motor vehicle may
244 be nonrenewed for any reason applicable to ~~either~~ the property
245 or motor vehicle insurance after providing 90 days' notice.

246 Section 5. Section 627.422, Florida Statutes, is amended to
247 read:

248 627.422 Assignment of policies.—A policy may be assignable,
249 or not assignable, as provided by its terms.

250 (1) Subject to its ~~terms relating to~~ assignability, a any
251 life or health insurance policy, under the terms of which the
252 beneficiary may be changed only upon the ~~sole~~ request of the
253 policyowner, may be assigned ~~either~~ by pledge or transfer of
254 title, by an assignment executed by the policyowner alone and
255 delivered to the insurer, regardless of whether ~~or not~~ the
256 pledgee or assignee is the insurer. Any such assignment entitles
257 ~~shall entitle~~ the insurer to deal with the assignee as the owner
258 or pledgee of the policy in accordance with the terms of the
259 assignment, until the insurer has received at its home office
260 written notice of termination of the assignment or pledge or
261 written notice by or on behalf of some other person claiming

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262 some interest in the policy in conflict with the assignment.

263 (2) For a residential property insurance policy, an
264 agreement purporting to assign post-loss benefits for repair or
265 replacement is a valid assignment only if the agreement:

266 (a) Requires the assignee to notify the insurance company
267 within 48 hours of the assignment. If the contact information
268 for the insurer is unavailable for the first 48 hours, the
269 assignee shall contact the company as soon as practicable;

270 (b) Limits the assignment to the contracted work to be
271 performed and is restricted to claims for damage to structures
272 covered under the policy;

273 (c) Specifies the estimated scope and price of the work
274 before it is performed;

275 (d) Prohibits the assignee from charging the policyowner
276 for any portion of the repair or replacement beyond the
277 applicable deductible contained in the insurance policy;

278 (e) Prohibits a person performing any portion of the repair
279 or replacement on behalf of the assignee from charging the
280 policyowner;

281 (f) Prohibits the assignee from retaining insurance
282 proceeds that are earmarked by the insurer for payment of work
283 to be performed by vendors other than the assignee; and

284 (g) Requires the assignee to guarantee that the work
285 performed for the loss event conforms to the most recent,
286 accepted industry standards.

287 Section 6. Paragraph (b) of subsection (4) of section
288 627.7015, Florida Statutes, is amended to read:

289 627.7015 Alternative procedure for resolution of disputed
290 property insurance claims.-

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291 (4) The department shall adopt by rule a property insurance
 292 mediation program to be administered by the department or its
 293 designee. The department may also adopt special rules which are
 294 applicable in cases of an emergency within the state. The rules
 295 shall be modeled after practices and procedures set forth in
 296 mediation rules of procedure adopted by the Supreme Court. The
 297 rules shall provide for:

298 (b) Qualifications, denial of application, suspension,
 299 revocation, and other penalties for ~~of~~ mediators as provided in
 300 s. 627.745 and ~~in~~ the Florida Rules for ~~of~~ Certified and Court-
 301 Appointed Court Appointed Mediators, ~~and for such other~~
 302 ~~individuals as are qualified by education, training, or~~
 303 ~~experience as the department determines to be appropriate.~~

304 Section 7. Section 627.70151, Florida Statutes, is created
 305 to read:

306 627.70151 Appraisal; conflicts of interest.—An insurer that
 307 offers residential coverage as defined in s. 627.4025, or a
 308 policyholder that uses an appraisal clause in a property
 309 insurance contract to establish a process for using an impartial
 310 umpire to estimate or evaluate the amount of loss, may challenge
 311 an umpire's impartiality and disqualify the proposed umpire only
 312 if:

313 (1) A familial relationship within the third degree exists
 314 between the umpire and a party or a representative of a party;

315 (2) The umpire has previously represented a party or a
 316 representative of a party in a professional capacity in the same
 317 or a substantially related matter;

318 (3) The umpire has represented another person in a
 319 professional capacity on the same or a substantially related

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320 matter that includes the claim or the same property, and the
321 other person's interests are materially adverse to the interests
322 of a party; or

323 (4) The umpire has worked as an employer or employee of a
324 party within the preceding 5 years.

325 Section 8. Paragraph (c) of subsection (2) of section
326 627.706, Florida Statutes, is amended to read:

327 627.706 Sinkhole insurance; catastrophic ground cover
328 collapse; definitions.—

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

332 (c) "Neutral evaluator" means a professional engineer or a
333 professional geologist who has completed a course of study in
334 alternative dispute resolution designed or approved by the
335 department for use in the neutral evaluation process, ~~and~~ and who is
336 determined by the department to be fair and impartial, and who
337 is not otherwise ineligible for certification under s. 627.7074.

338 Section 9. Subsections (7) and (18) of section 627.7074,
339 Florida Statutes, are amended to read:

340 627.7074 Alternative procedure for resolution of disputed
341 sinkhole insurance claims.—

342 (7) Upon receipt of a request for neutral evaluation, the
343 department shall provide the parties a list of certified neutral
344 evaluators. The department shall allow the parties to submit
345 requests to disqualify evaluators on the list for cause.

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

348 1. A familial relationship within the third degree exists

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349 between the neutral evaluator and either party or a
350 representative of either party ~~within the third degree.~~

351 2. The proposed neutral evaluator has, in a professional
352 capacity, previously represented either party or a
353 representative of either party~~7~~ in the same or a substantially
354 related matter.

355 3. The proposed neutral evaluator has, in a professional
356 capacity, represented another person in the same or a
357 substantially related matter and that person's interests are
358 materially adverse to the interests of the parties. The term
359 "substantially related matter" means participation by the
360 neutral evaluator on the same claim, property, or adjacent
361 property.

362 4. The proposed neutral evaluator has, within the preceding
363 5 years, worked as an employer or employee of any party to the
364 case.

365 (b) The department shall deny an application for, or
366 suspend or revoke its approval of, a neutral evaluator if the
367 department finds that any of the following grounds exist:

368 1. Lack of one or more of the qualifications specified in
369 this section for approval or certification.

370 2. Material misstatement, misrepresentation, or fraud in
371 obtaining or attempting to obtain approval or certification.

372 3. Demonstrated lack of fitness or trustworthiness to act
373 as a neutral evaluator.

374 4. Fraudulent or dishonest practices in the conduct of an
375 evaluation or in the conduct of financial services business.

376 5. Violation of any provision of this code or of a lawful
377 order or rule of the department, or aiding, instructing, or

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378 encouraging another party in committing such a violation.

379 (c)~~(b)~~ The parties shall appoint a neutral evaluator from
380 the department list and promptly inform the department. If the
381 parties cannot agree to a neutral evaluator within 14 business
382 days, the department shall appoint a neutral evaluator from the
383 list of certified neutral evaluators. The department shall allow
384 each party to disqualify two neutral evaluators without cause.
385 Upon selection or appointment, the department shall promptly
386 refer the request to the neutral evaluator.

387 (d)~~(e)~~ Within 14 business days after ~~the~~ referral, the
388 neutral evaluator shall notify the policyholder and the insurer
389 of the date, time, and place of the neutral evaluation
390 conference. The conference may be held by telephone, if feasible
391 and desirable. The neutral evaluator shall make reasonable
392 efforts to hold the conference within 90 days after the receipt
393 of the request by the department. Failure of the neutral
394 evaluator to hold the conference within 90 days does not
395 invalidate either party's right to neutral evaluation or to a
396 neutral evaluation conference held outside this timeframe.

397 (18) The department shall adopt rules of procedure for the
398 neutral evaluation process and for certifying, denying
399 certification, suspending certification, and revoking the
400 certification of a neutral evaluator.

401 Section 10. Section 627.7142, Florida Statutes, is created
402 to read:

403 627.7142 Homeowner Claims Bill of Rights.—An insurer
404 issuing a personal lines residential property insurance policy
405 in this state must provide a Claims Bill of Rights to a
406 policyholder within 14 calendar days after receiving an initial

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407 communication with respect to a claim, unless the claim follows
408 an event that is the subject of a declaration of a state of
409 emergency by the Governor. The purpose of the bill of rights is
410 to explain, in simple, nontechnical terms, the rights of a
411 residential property insurance policyholder who files a claim of
412 loss. The Claims Bill of Rights is specific to the claims
413 process and does not represent all of a policyholder's rights
414 under Florida law regarding the insurance policy. The Claims
415 Bill of Rights does not create a civil cause of action by any
416 individual policyholder or class of policyholders against an
417 individual insurer. The Claims Bill of Rights shall state:

418
419 HOMEOWNER CLAIMS

420 BILL OF RIGHTS

421 This Bill of Rights is specific to the claims process
422 and does not represent all of your rights under
423 Florida law regarding your policy. There are also
424 exceptions to the stated timelines when conditions are
425 beyond your insurance company's control. This document
426 does not create a civil cause of action by an
427 individual policyholder, or a class of policyholders,
428 against an individual insurer.

429
430 YOU HAVE THE RIGHT TO:

431 1. Receive from your insurance company an
432 acknowledgment of your reported claim within 14 days
433 after the time you communicated the claim, along with
434 necessary claim forms, including a proof-of-loss form,
435 instructions, and appropriate, up-to-date contact

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436 information.

437 2. Upon written request, receive from your
438 insurance company within 30 days after you have
439 completed a proof-of-loss statement to your insurance
440 company, confirmation that your claim is covered in
441 full, partially covered, or denied, or receive a
442 written statement that your claim is being
443 investigated.

444 3. Within 90 days, receive full settlement
445 payment for your claim or payment of the undisputed
446 portion of your claim, or your insurance company's
447 denial of your claim.

448 4. Free mediation of your disputed claim by the
449 Division of Consumer Services, under most
450 circumstances and subject to certain restrictions.

451 5. Neutral evaluation of your disputed claim, if
452 your claim is for damage caused by a sinkhole and is
453 covered by your policy.

454 6. Contact the Florida Department of Financial
455 Services Division of Consumer Services' toll-free
456 helpline for assistance with any insurance claim or
457 questions pertaining to the handling of your claim.
458 You can reach the Helpline by phone at...toll free
459 phone number..., or you can seek assistance online at
460 the Florida Department of Financial Services Division
461 of Consumer Services' website at...website address....

462

463 YOU ARE ADVISED TO:

464 1. Contact your insurance company before entering

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465 into any contract for repairs to confirm any managed
466 repair policy provisions or optional preferred
467 vendors.

468 2. Make and document emergency repairs that are
469 necessary to prevent further damage. Keep the damaged
470 property, if feasible, keep all receipts, and take
471 photographs of damage before and after any repairs.

472 3. Carefully read any contract that requires you
473 to pay out-of-pocket expenses or a fee that is based
474 on a percentage of the insurance proceeds that you
475 will receive for repairing or replacing your property.

476 4. Confirm that the contractor you choose is
477 licensed to do business in Florida. You can verify a
478 contractor's license and check to see if there are any
479 complaints against him or her by calling the Florida
480 Department of Business and Professional Regulation.
481 You should also ask the contractor for references from
482 previous work.

483 5. Require all contractors to provide proof of
484 insurance before beginning repairs.

485 6. Take precautions if the damage requires you to
486 leave your home, including securing your property and
487 turning off your gas, water, and electricity, and
488 contacting your insurance company and provide a phone
489 number where you can be reached.

490
491 Section 11. Section 627.715, Florida Statutes, is created
492 to read:

493 627.715 Emergency mitigation services; agreements.—

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494 (1) As used in this section, the term "emergency mitigation
495 services" means the delivery of goods or services that are
496 needed to mitigate damage caused by fire, water, or catastrophic
497 events when delay may exacerbate the damage to the covered
498 property. Services include the removal of contents, removal of
499 water or other contaminants, cleaning, sanitizing, incidental
500 demolition, or other treatment, including preventive activities.

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

504 (a) The agreement specifies in writing the estimated scope
505 and price of the work before it is performed;

506 (b) Any change from the original estimated scope and price
507 of the work is preapproved by the policyholder; and

508 (c) The work is performed by an individual or company
509 possessing a valid certification consistent with the most recent
510 Standard and Reference Guide for Professional Water Damage
511 Restoration, as developed by the Institute of Inspection,
512 Cleaning and Restoration Certification and approved by the
513 American National Standards Institute, or by a company that
514 possesses a valid Division I license under chapter 489, which is
515 providing services within the scope of that license. A company
516 is considered to be certified for the purposes of this paragraph
517 if the company representative who possesses a valid
518 certification personally supervises the emergency mitigation
519 services performed.

520 Section 12. Present subsections (3) through (5) of section
521 627.745, Florida Statutes, are amended, and a new subsection (4)
522 is added to that section, to read:

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523 627.745 Mediation of claims.—

524 (3)~~(a)~~ The department shall approve mediators to conduct
525 mediations pursuant to this section.

526 (a) All mediators must file an application under oath for
527 approval as a mediator.

528 (b) To qualify for approval as a mediator, an individual ~~a~~
529 ~~person~~ must meet one of the following qualifications:

530 1. Possess active certification by the Florida Supreme
531 Court as a circuit court mediator. A certified circuit court
532 mediator in a lapsed, suspended, sanctioned, or decertified
533 status is not eligible to participate in the mediation program ~~a~~
534 ~~masters or doctorate degree in psychology, counseling, business,~~
535 ~~accounting, or economics, be a member of The Florida Bar, be~~
536 ~~licensed as a certified public accountant, or demonstrate that~~
537 ~~the applicant for approval has been actively engaged as a~~
538 ~~qualified mediator for at least 4 years prior to July 1, 1990.~~

539 2. Be an approved department mediator as of July 1, 2014,
540 and have conducted at least one mediation on behalf of the
541 department within the 4 years immediately preceding that the
542 date. the application for approval is filed with the department,
543 ~~have completed a minimum of a 40-hour training program approved~~
544 ~~by the department and successfully passed a final examination~~
545 ~~included in the training program and approved by the department.~~
546 ~~The training program shall include and address all of the~~
547 ~~following:~~

548 ~~a. Mediation theory.~~

549 ~~b. Mediation process and techniques.~~

550 ~~c. Standards of conduct for mediators.~~

551 ~~d. Conflict management and intervention skills.~~

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552 ~~e. Insurance nomenclature.~~

553 (4) The department shall deny an application, or suspend or
554 revoke its approval of a mediator, or the certification of a
555 neutral evaluator to serve as a mediator, if the department
556 finds that any of the following grounds exists:

557 (a) Lack of one or more of the qualifications specified in
558 this section for approval or certification.

559 (b) Material misstatement, misrepresentation, or fraud in
560 obtaining or attempting to obtain approval or certification.

561 (c) Demonstrated lack of fitness or trustworthiness to act
562 as a mediator or neutral evaluator.

563 (d) Fraudulent or dishonest practices in the conduct of
564 mediation or neutral evaluation or in the conduct of financial
565 services business.

566 (e) Violation of this code, of a lawful order or rule of
567 the department, or of the Florida Rules for Certified and Court-
568 Appointed Mediators, or the aiding, instructing, or encouraging
569 of another to commit such violation.

570 (5)~~(4)~~ The department shall ~~must~~ adopt rules to administer
571 this section, including rules of procedure for claims mediation,
572 taking into consideration a system that ~~which~~:

573 (a) Is fair.

574 (b) Promotes settlement.

575 (c) Avoids delay.

576 (d) Is nonadversarial.

577 (e) Uses a framework for modern mediating technique.

578 (f) Controls costs and expenses of mediation.

579 (6)~~(5)~~ Disclosures and information divulged in the
580 mediation process are not admissible in any subsequent action or

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581 proceeding relating to the claim or to the cause of action
582 giving rise to the claim. A person demanding mediation under
583 this section may not demand or request mediation after a suit ~~is~~
584 ~~filed~~ relating to the same facts already mediated is filed.
585 Section 13. This act shall take effect July 1, 2014.