

1 A bill to be entitled

2 An act relating to property insurance; amending s.  
3 627.3518, F.S.; conforming a cross-reference; amending  
4 s. 627.409, F.S.; providing that a claim for  
5 residential property insurance cannot be denied based  
6 on certain credit information; amending s. 627.4133,  
7 F.S.; providing that a policy or contract may not be  
8 cancelled based on certain credit information;  
9 amending s. 627.7015, F.S.; revising the rule  
10 requirements relating to the property insurance  
11 mediation program administered by the Department of  
12 Financial Services; creating s. 627.70151, F.S.;  
13 providing grounds for challenging an umpire's  
14 impartiality in estimating the amount of a property  
15 loss; amending s. 627.706, F.S.; redefining the term  
16 "neutral evaluator"; amending s. 627.7074, F.S.;  
17 specifying grounds for denying, suspending, or  
18 revoking approval of a neutral evaluator; creating s.  
19 627.7142, F.S.; establishing a Homeowner Claims Bill  
20 of Rights for personal lines residential property  
21 insurance policyholders; providing that such bill of  
22 rights does not provide a cause of action; creating s.  
23 627.715, F.S.; defining terms; providing requirements  
24 for emergency mitigation repair agreements; requiring  
25 an emergency mitigation contractor to be appropriately  
26 certified or to possess a contracting license;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 | providing effective dates.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. Subsection (9) of section 627.3518, Florida  
 32 | Statutes, is amended to read:

33 | 627.3518 Citizens Property Insurance Corporation  
 34 | policyholder eligibility clearinghouse program.—The purpose of  
 35 | this section is to provide a framework for the corporation to  
 36 | implement a clearinghouse program by January 1, 2014.

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

42 | Section 2. Section 627.409, Florida Statutes, is amended  
 43 | to read:

44 | 627.409 Representations in applications; warranties.—

45 | (1) Any statement or description made by or on behalf of  
 46 | an insured or annuitant in an application for an insurance  
 47 | policy or annuity contract, or in negotiations for a policy or  
 48 | contract, is a representation and ~~is~~ not a warranty. Except as  
 49 | provided in subsection (3), a misrepresentation, omission,  
 50 | concealment of fact, or incorrect statement may prevent recovery  
 51 | under the contract or policy only if any of the following apply:

52 | (a) The misrepresentation, omission, concealment, or

53 statement is fraudulent or is material ~~either~~ to the acceptance  
54 of the risk or to the hazard assumed by the insurer.

55 (b) If the true facts had been known to the insurer  
56 pursuant to a policy requirement or other requirement, the  
57 insurer in good faith would not have issued the policy or  
58 contract, would not have issued it at the same premium rate,  
59 would not have issued a policy or contract in as large an  
60 amount, or would not have provided coverage with respect to the  
61 hazard resulting in the loss.

62 (2) A breach or violation by the insured of a any  
63 warranty, condition, or provision of a any wet marine or  
64 transportation insurance policy, contract of insurance,  
65 endorsement, or application ~~therefor~~ does not void the policy or  
66 contract, or constitute a defense to a loss thereon, unless such  
67 breach or violation increased the hazard by any means within the  
68 control of the insured.

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

73 Section 3. Paragraph (b) of subsection (2) of section  
74 627.4133, Florida Statutes, is amended to read:

75 627.4133 Notice of cancellation, nonrenewal, or renewal  
76 premium.—

77 (2) With respect to any personal lines or commercial  
78 residential property insurance policy, including, but not

79 limited to, any homeowner's, mobile home owner's, farmowner's,  
 80 condominium association, condominium unit owner's, apartment  
 81 building, or other policy covering a residential structure or  
 82 its contents:

83 (b) The insurer shall give the first-named insured written  
 84 notice of nonrenewal, cancellation, or termination at least 100  
 85 days before the effective date of the nonrenewal, cancellation,  
 86 or termination. However, the insurer shall give at least 100  
 87 days' written notice, or written notice by June 1, whichever is  
 88 earlier, for any nonrenewal, cancellation, or termination that  
 89 would be effective between June 1 and November 30. The notice  
 90 must include the reason ~~or reasons~~ for the nonrenewal,  
 91 cancellation, or termination, except that:

92 1. The insurer shall give the first-named insured written  
 93 notice of nonrenewal, cancellation, or termination at least 120  
 94 days before ~~prior to~~ the effective date of the nonrenewal,  
 95 cancellation, or termination for a first-named insured whose  
 96 residential structure has been insured by that insurer or an  
 97 affiliated insurer for at least 5 years before ~~a 5-year period~~  
 98 ~~immediately prior to~~ the date of the written notice.

99 2. If cancellation is for nonpayment of premium, at least  
 100 10 days' written notice of cancellation accompanied by the  
 101 reason therefor must be given. As used in this subparagraph, the  
 102 term "nonpayment of premium" means failure of the named insured  
 103 to discharge when due her or his obligations for paying the  
 104 premium ~~in connection with the payment of premiums~~ on a policy

105 or an ~~any~~ installment of such premium, whether the premium is  
 106 payable directly to the insurer or its agent or indirectly under  
 107 a ~~any~~ premium finance plan or extension of credit, or failure to  
 108 maintain membership in an organization if such membership is a  
 109 condition precedent to insurance coverage. The term also means  
 110 the failure of a financial institution to honor an insurance  
 111 applicant's check after delivery to a licensed agent for payment  
 112 of a premium, ~~even if the agent has previously delivered or~~  
 113 ~~transferred the premium to the insurer.~~ If a dishonored check  
 114 represents the initial premium payment, the contract and all  
 115 contractual obligations are void ab initio unless the nonpayment  
 116 is cured within the earlier of 5 days after actual notice by  
 117 certified mail is received by the applicant or 15 days after  
 118 notice is sent to the applicant by certified mail or registered  
 119 mail. ~~and~~ If the contract is void, any premium received by the  
 120 insurer from a third party must be refunded to that party in  
 121 full.

122 3. If ~~such~~ cancellation or termination occurs during the  
 123 first 90 days the insurance is in force and the insurance is  
 124 canceled or terminated for reasons other than nonpayment of  
 125 premium, at least 20 days' written notice of cancellation or  
 126 termination accompanied by the reason therefor must be given  
 127 unless there has been a material misstatement or  
 128 misrepresentation or a failure to comply with the underwriting  
 129 requirements established by the insurer.

130 4. After a policy or contract is in effect for 90 days,

131 the insurer may not cancel or terminate the policy or contract  
 132 based on credit information available in public records.

133 ~~5.4.~~ The requirement for providing written notice by June  
 134 1 of any nonrenewal that would be effective between June 1 and  
 135 November 30 does not apply to the following situations, but the  
 136 insurer remains subject to the requirement to provide such  
 137 notice at least 100 days before the effective date of  
 138 nonrenewal:

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

142 b. A policy that is nonrenewed by Citizens Property  
 143 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
 144 that has been assumed by an authorized insurer offering  
 145 replacement coverage to the policyholder is exempt from the  
 146 notice requirements of paragraph (a) and this paragraph. In such  
 147 cases, the corporation must give the named insured written  
 148 notice of nonrenewal at least 45 days before the effective date  
 149 of the nonrenewal.

150  
 151 After the policy has been in effect for 90 days, the policy may  
 152 not be canceled by the insurer unless there has been a material  
 153 misstatement, a nonpayment of premium, a failure to comply with  
 154 underwriting requirements established by the insurer within 90  
 155 days after the date of effectuation of coverage, ~~or~~ a  
 156 substantial change in the risk covered by the policy, or ~~if~~ the

157 cancellation is for all insureds under such policies for a given  
158 class of insureds. This paragraph does not apply to individually  
159 rated risks that have ~~having~~ a policy term of less than 90 days.

160 ~~6.5.~~ Notwithstanding any other provision of law, an  
161 insurer may cancel or nonrenew a property insurance policy after  
162 at least 45 days' notice if the office finds that the early  
163 cancellation of some or all of the insurer's policies is  
164 necessary to protect the best interests of the public or  
165 policyholders and the office approves the insurer's plan for  
166 early cancellation or nonrenewal of some or all of its policies.  
167 The office may base such finding upon the financial condition of  
168 the insurer, lack of adequate reinsurance coverage for hurricane  
169 risk, or other relevant factors. The office may condition its  
170 finding on the consent of the insurer to be placed under  
171 administrative supervision pursuant to s. 624.81 or to the  
172 appointment of a receiver under chapter 631.

173 ~~7.6.~~ A policy covering both a home and a motor vehicle may  
174 be nonrenewed for any reason applicable to ~~either~~ the property  
175 or motor vehicle insurance after providing 90 days' notice.

176 Section 4. Paragraph (b) of subsection (4) of section  
177 627.7015, Florida Statutes, is amended to read:

178 627.7015 Alternative procedure for resolution of disputed  
179 property insurance claims.—

180 (4) The department shall adopt by rule a property  
181 insurance mediation program to be administered by the department  
182 or its designee. The department may also adopt special rules

183 which are applicable in cases of an emergency within the state.  
184 The rules shall be modeled after practices and procedures set  
185 forth in mediation rules of procedure adopted by the Supreme  
186 Court. The rules shall provide for:

187       (b) Qualifications, denial of application, suspension,  
188 revocation of approval, and other penalties for ~~of~~ mediators as  
189 provided in s. 627.745 and ~~in~~ the Florida Rules for ~~of~~ Certified  
190 and Court-Appointed ~~Court Appointed~~ Mediators, ~~and for such~~  
191 ~~other individuals as are qualified by education, training, or~~  
192 ~~experience as the department determines to be appropriate.~~

193       Section 5. Section 627.70151, Florida Statutes, is created  
194 to read:

195       627.70151 Appraisal; conflicts of interest.—An insurer  
196 that offers residential coverage, as defined in s. 627.4025, or  
197 a policyholder that uses an appraisal clause in a property  
198 insurance contract to establish a process of estimating or  
199 evaluating the amount of loss through the use of an impartial  
200 umpire may challenge an umpire's impartiality and disqualify the  
201 proposed umpire only if:

202       (1) A familial relationship within the third degree exists  
203 between the umpire and any party or a representative of any  
204 party;

205       (2) The umpire has previously represented any party in a  
206 professional capacity in the same claim or matter involving the  
207 same property;

208       (3) The umpire has represented another person in a

209 professional capacity on the same or a substantially related  
 210 matter, which includes the claim, same property, or an adjacent  
 211 property and that other person's interests are materially  
 212 adverse to the interests of any party; or

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

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

217 627.706 Sinkhole insurance; catastrophic ground cover  
 218 collapse; definitions.—

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

222 (c) "Neutral evaluator" means an ~~a professional~~ engineer  
 223 licensed under chapter 471 with experience and expertise in the  
 224 identification of sinkhole activity as well as other potential  
 225 causes of structural damage or a professional geologist. The  
 226 engineer or professional geologist must have ~~who has~~ completed a  
 227 course of study in alternative dispute resolution designed or  
 228 approved by the department for use in the neutral evaluation  
 229 process, must be ~~and who is~~ determined by the department to be  
 230 fair and impartial, and must not be otherwise ineligible for  
 231 certification as provided in s. 627.7074.

232 (f) "Professional engineer" means a person, as defined in  
 233 s. 471.005, who has a bachelor's degree or higher in  
 234 engineering. A professional engineer must also have experience

235 and expertise in the identification of sinkhole activity or ~~as~~  
 236 ~~well as~~ other potential causes of structural damage.

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

239 627.7074 Alternative procedure for resolution of disputed  
 240 sinkhole insurance claims.—

241 (7) Upon receipt of a request for neutral evaluation, the  
 242 department shall provide the parties a list of certified neutral  
 243 evaluators. The department shall allow the parties to submit  
 244 requests to disqualify evaluators on the list for cause.

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

247 1. A familial relationship exists between the neutral  
 248 evaluator and either party or a representative of either party  
 249 within the third degree.

250 2. The proposed neutral evaluator has, in a professional  
 251 capacity, previously represented either party or a  
 252 representative of either party, in the same or a substantially  
 253 related matter.

254 3. The proposed neutral evaluator has, in a professional  
 255 capacity, represented another person in the same or a  
 256 substantially related matter and that person's interests are  
 257 materially adverse to the interests of the parties. The term  
 258 "substantially related matter" means participation by the  
 259 neutral evaluator on the same claim, property, or adjacent  
 260 property.

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

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

268 1. Lack of one or more of the qualifications for  
 269 certification specified in this section.

270 2. Material misstatement, misrepresentation, or fraud in  
 271 obtaining or attempting to obtain the certification.

272 3. Demonstrated lack of fitness or trustworthiness to act  
 273 as a neutral evaluator.

274 4. Fraudulent or dishonest practices in the conduct of an  
 275 evaluation or in the conduct of business in the financial  
 276 services industry.

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

280 (c) ~~(b)~~ The parties shall appoint a neutral evaluator from  
 281 the department list and promptly inform the department. If the  
 282 parties cannot agree to a neutral evaluator within 14 business  
 283 days, the department shall appoint a neutral evaluator from the  
 284 list of certified neutral evaluators. The department shall allow  
 285 each party to disqualify two neutral evaluators without cause.  
 286 Upon selection or appointment, the department shall promptly

287 refer the request to the neutral evaluator.

288 (d)~~(e)~~ Within 14 business days after ~~the~~ referral, the  
 289 neutral evaluator shall notify the policyholder and the insurer  
 290 of the date, time, and place of the neutral evaluation  
 291 conference. The conference may be held by telephone, if feasible  
 292 and desirable. The neutral evaluator shall make reasonable  
 293 efforts to hold the conference within 90 days after the receipt  
 294 of the request by the department. Failure of the neutral  
 295 evaluator to hold the conference within 90 days does not  
 296 invalidate either party's right to neutral evaluation or to a  
 297 neutral evaluation conference held outside this timeframe.

298 (18) The department shall adopt rules of procedure for the  
 299 neutral evaluation process and adopt rules for certifying,  
 300 denying certification of, suspending certification of, and  
 301 revoking the certification of a neutral evaluator.

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

304 627.7142 Homeowner Claims Bill of Rights.—An insurer  
 305 issuing a personal lines residential property insurance policy  
 306 in this state must provide a Homeowner Claims Bill of Rights to  
 307 a policyholder within 14 days after receiving an initial  
 308 communication with respect to a claim, unless the claim follows  
 309 an event that is the subject of a declaration of a state of  
 310 emergency by the Governor. The purpose of the bill of rights is  
 311 to summarize, in simple, nontechnical terms, existing Florida  
 312 law regarding the rights of a personal lines residential



339 individual policyholder, or a class of policyholders,  
340 against an insurer or insurers and does not prohibit  
341 an insurer from exercising its right to repair damaged  
342 property in compliance with the terms of an applicable  
343 policy.

344  
345 YOU HAVE THE RIGHT TO:

- 346 1. Receive from your insurance company an  
347 acknowledgment of your reported claim within 14 days  
348 after the time you communicated the claim.
- 349 2. Upon written request, receive from your insurance  
350 company, within 30 days after you have submitted a  
351 complete proof-of-loss statement to your insurance  
352 company, confirmation that your claim is covered in  
353 full, partially covered, or denied or receive a  
354 written statement that your claim is being  
355 investigated.
- 356 3. Within 90 days, subject to any dual interest noted  
357 in the policy, receive full settlement payment for  
358 your claim, payment of the undisputed portion of your  
359 claim, or your insurance company's denial of your  
360 claim.
- 361 4. Free mediation of your disputed claim by the  
362 Florida Department of Financial Services Division of  
363 Consumer Services under most circumstances and subject  
364 to certain restrictions.

365 5. Neutral evaluation of your disputed claim, if your  
366 claim is for damage caused by a sinkhole and is  
367 covered by your policy.

368 6. Contact the Florida Department of Financial  
369 Services Division of Consumer Services' toll-free  
370 helpline for assistance with any insurance claim or  
371 questions pertaining to the handling of your claim.  
372 You can reach the helpline by telephone at ...(toll  
373 free telephone number)..., or you can seek assistance  
374 online at the Florida Department of Financial Services  
375 Division of Consumer Services' website at ...(website  
376 address)....

377

378 YOU ARE ADVISED TO:

379 1. Contact your insurance company before entering  
380 into any contract for repairs to confirm any managed  
381 repair policy provisions or optional preferred  
382 vendors.

383 2. Make and document emergency repairs that are  
384 necessary to prevent further damage. Keep the damaged  
385 property, if feasible, keep all receipts, and take  
386 photographs of damage before and after any repairs.

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

391 4. Confirm that the contractor you choose is licensed  
 392 to do business in Florida. You can verify a  
 393 contractor's license and check to see if there are any  
 394 complaints against him or her by calling the Florida  
 395 Department of Business and Professional Regulation.  
 396 You should also ask the contractor for references from  
 397 previous work.

398 5. Require all contractors to provide proof of  
 399 insurance before beginning repairs.

400 6. Take precautions if the damage requires you to  
 401 leave your home, including securing your property and  
 402 turning off your gas, water, and electricity, and  
 403 contacting your insurance company and provide a  
 404 telephone number where you can be reached.

405  
 406 Section 9. Section 627.715, Florida Statutes, is created  
 407 to read:

408 627.715 Emergency mitigation services; agreements.-

409 (1) As used in this section, the term "emergency  
 410 mitigation services" means the delivery of goods or services  
 411 that are needed to mitigate damage caused by fire, water, or  
 412 catastrophic events when delay may exacerbate the damage to the  
 413 covered property. Services include the removal of contents,  
 414 removal of water or other contaminants, cleaning, sanitizing,  
 415 incidental demolition, or other treatment, including preventive  
 416 activities.

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

420       (a) The agreement entered into by the policyholder  
421 complies with any managed repair or preferred vendor policy  
422 provisions;

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

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

427       (d) The work is performed by an individual or company  
428 possessing a valid certification consistent with the most recent  
429 Standard and Reference Guide for Professional Water Damage  
430 Restoration, as developed by the Institute of Inspection,  
431 Cleaning and Restoration Certification and approved by the  
432 American National Standards Institute, or by a company that  
433 possesses a valid Division I license under chapter 489, which is  
434 providing services within the scope of that license. A company  
435 is considered to be certified for purposes of this paragraph if  
436 the company representative who possesses a valid certification  
437 personally supervises the emergency mitigation services  
438 performed.

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