

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.  
 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  
 43 to 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  
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  
65 the alleged misconduct, the individual or entity licensee shall,  
66 ~~if 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.

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  
 112 to read:

113 627.409 Representations in applications; warranties.—

114 (1) Any statement or description made by or on behalf of  
 115 an insured or annuitant in an application for an insurance  
 116 policy or annuity contract, or in negotiations for a policy or  
 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~~  
 132 warranty, condition, or provision of a ~~any~~ wet marine or  
 133 transportation insurance policy, contract of insurance,  
 134 endorsement, or application ~~therefor~~ does not void the policy or  
 135 contract, or constitute a defense to a loss thereon, unless such  
 136 breach or violation increased the hazard by any means within the  
 137 control 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.—

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  
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  
204 1 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  
 231 insurer may cancel or nonrenew a property insurance policy after  
 232 at least 45 days' notice if the office finds that the early  
 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  
 247 to read:

248 627.422 Assignment of policies.—A policy may be  
 249 assignable, 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  
262 some interest in the policy in conflict with the assignment.

263 (2) The assignment of post-loss benefits is restricted for  
264 a residential property insurance policy. An agreement purporting  
265 to assign post-loss benefits for repair or replacement is valid  
266 only if the agreement:

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

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

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

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

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

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

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

287 accepted industry standards.

288 Section 6. Paragraph (b) of subsection (4) of section  
289 627.7015, Florida Statutes, is amended to read:

290 627.7015 Alternative procedure for resolution of disputed  
291 property insurance claims.—

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

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

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

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

313 if:

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

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

319 (3) The umpire has represented another person in a  
320 professional capacity on the same or a substantially related  
321 matter that includes the claim or the same property, and the  
322 other person's interests are materially adverse to the interests  
323 of a party; or

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

326 Section 8. Paragraph (c) of subsection (2) of section  
327 627.706, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

349 1. A familial relationship within the third degree exists  
 350 between the neutral evaluator and either party or a  
 351 representative of either party ~~within the third degree~~.

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

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

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

365 party to the case.

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

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

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

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

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

377 5. Violation of any provision of this code or of a lawful  
378 order or rule of the department, or aiding, instructing, or  
379 encouraging another party in committing such a violation.

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

388 (d)~~(e)~~ Within 14 business days after ~~the~~ referral, the  
389 neutral evaluator shall notify the policyholder and the insurer  
390 of the date, time, and place of the neutral evaluation

391 conference. The conference may be held by telephone, if feasible  
392 and desirable. The neutral evaluator shall make reasonable  
393 efforts to hold the conference within 90 days after the receipt  
394 of the request by the department. Failure of the neutral  
395 evaluator to hold the conference within 90 days does not  
396 invalidate either party's right to neutral evaluation or to a  
397 neutral evaluation conference held outside this timeframe.

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

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

404 627.7142 Homeowner Claims Bill of Rights.—An insurer  
405 issuing a residential property insurance policy in this state  
406 must provide a Claims Bill of Rights to a policyholder within 14  
407 calendar days after receiving a communication with respect to a  
408 claim, unless the claim follows an event that is the subject of  
409 a declaration of a state emergency by the Governor. The purpose  
410 of the bill of rights is to explain, in simple, nontechnical  
411 terms, the rights of a residential property insurance  
412 policyholder who files a claim of loss. The Claims Bill of  
413 Rights is specific to the claims process and does not represent  
414 all of a policyholder's rights under Florida law regarding the  
415 insurance policy. The Claims Bill of Rights does not create a  
416 civil cause of action by any individual policyholder or class of



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417 policyholders against an individual insurer. The Claims Bill of  
418 Rights shall state:

419

420                                     HOMEOWNER CLAIMS

421                                     BILL OF RIGHTS

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

430

431 YOU HAVE THE RIGHT TO:

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

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

- 443 statement that your claim is being investigated.
- 444 3. Within 90 days, receive full settlement payment
- 445 for your claim or payment of the undisputed portion of
- 446 your claim, or your insurance company's denial of your
- 447 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 your
- 452 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
- 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 repairs.  
 472 3. Carefully read any contract that requires you to  
 473 pay out-of-pocket expenses or a fee that is based on a  
 474 percentage of the insurance proceeds that you will  
 475 receive for repairing or replacing your property.  
 476 4. Confirm that the contractor you choose is licensed  
 477 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.-  
 494 (1) As used in this section, the term "emergency

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

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

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

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

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

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

524 627.745 Mediation of claims.—

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

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

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

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

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

547 ~~The training program shall include and address all of the~~  
 548 ~~following:~~

- 549 ~~a. Mediation theory.~~
- 550 ~~b. Mediation process and techniques.~~
- 551 ~~c. Standards of conduct for mediators.~~
- 552 ~~d. Conflict management and intervention skills.~~
- 553 ~~e. Insurance nomenclature.~~

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

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

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

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

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

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

571 (5)-(4) The department shall ~~must~~ adopt rules to administer  
 572 this section, including rules of procedure for claims mediation,

573 taking into consideration a system that ~~which~~:

574 (a) Is fair.

575 (b) Promotes settlement.

576 (c) Avoids delay.

577 (d) Is nonadversarial.

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

579 (f) Controls costs and expenses of mediation.

580 (6)~~(5)~~ Disclosures and information divulged in the  
581 mediation process are not admissible in any subsequent action or  
582 proceeding relating to the claim or to the cause of action  
583 giving rise to the claim. A person demanding mediation under  
584 this section may not demand or request mediation after a suit ~~is~~  
585 ~~filed~~ relating to the same facts already mediated is filed.

586 Section 13. This act shall take effect July 1, 2014.