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LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 85 - 88

and insert:

Section 2. Section 627.70133, Florida Statutes, applies to post-loss assignments or transfers of rights, benefits, or policy provisions not related to liability coverage which are executed after the effective date of this act.

Section 3. Paragraph (a) of subsection (1) and paragraph (a) of subsection (5) of section 627.70131, Florida Statutes, are amended to read:



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12 627.70131 Insurer's duty to acknowledge communications
13 regarding claims; investigation.—

14 (1) (a) Upon an insurer's receiving a communication with
15 respect to a claim, the insurer shall, within 7 ~~14~~ calendar
16 days, review and acknowledge receipt of such communication
17 unless payment is made within that period of time or unless the
18 failure to acknowledge is caused by factors beyond the control
19 of the insurer which reasonably prevent such acknowledgment. If
20 the acknowledgment is not in writing, a notification indicating
21 acknowledgment shall be made in the insurer's claim file and
22 dated. A communication made to or by an agent of an insurer with
23 respect to a claim shall constitute communication to or by the
24 insurer. If a residential property insurer receives a
25 communication in writing from a third party identified in s.
26 627.422 with respect to the claim requesting that the insurer
27 acknowledge the existence of a policy of insurance on the
28 property, the insurer must respond to the communication within 7
29 days after the request. If the insurer's acknowledgment is not
30 in writing, a notification indicating acknowledgment must be
31 made in the insurer's claim file and dated.

32 (5) (a) Within 45 ~~90~~ days after an insurer receives notice
33 of an initial, reopened, or supplemental property insurance
34 claim from a policyholder, the insurer shall pay or deny such
35 claim or a portion of the claim unless the failure to pay is
36 caused by factors beyond the control of the insurer which
37 reasonably prevent such payment. Any payment of an initial or
38 supplemental claim or portion of such claim made 45 ~~90~~ days
39 after the insurer receives notice of the claim, or made more
40 than 15 days after there are no longer factors beyond the



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41 control of the insurer which reasonably prevented such payment,
42 whichever is later, bears interest at the rate set forth in s.
43 55.03. Interest begins to accrue from the date the insurer
44 receives notice of the claim. The provisions of this subsection
45 may not be waived, voided, or nullified by the terms of the
46 insurance policy. If there is a right to prejudgment interest,
47 the insured shall select whether to receive prejudgment interest
48 or interest under this subsection. Interest is payable when the
49 claim or portion of the claim is paid. Failure to comply with
50 this subsection constitutes a violation of this code. However,
51 failure to comply with this subsection does not form the sole
52 basis for a private cause of action.

53 Section 4. Section 627.7142, Florida Statutes, is amended
54 to read:

55 627.7142 Homeowner Claims Bill of Rights.—An insurer
56 issuing a personal lines residential property insurance policy
57 in this state must provide a Homeowner Claims Bill of Rights to
58 a policyholder within 7 ~~14~~ days after receiving an initial
59 communication with respect to a claim, unless the claim follows
60 an event that is the subject of a declaration of a state of
61 emergency by the Governor. The purpose of the bill of rights is
62 to summarize, in simple, nontechnical terms, existing Florida
63 law regarding the rights of a personal lines residential
64 property insurance policyholder who files a claim of loss. The
65 Homeowner Claims Bill of Rights is specific to the claims
66 process and does not represent all of a policyholder's rights
67 under Florida law regarding the insurance policy. The Homeowner
68 Claims Bill of Rights does not create a civil cause of action by
69 any individual policyholder or class of policyholders against an



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70 insurer or insurers. The failure of an insurer to properly
71 deliver the Homeowner Claims Bill of Rights is subject to
72 administrative enforcement by the office but is not admissible
73 as evidence in a civil action against an insurer. The Homeowner
74 Claims Bill of Rights does not enlarge, modify, or contravene
75 statutory requirements, including, but not limited to, ss.
76 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
77 not prohibit an insurer from exercising its right to repair
78 damaged property in compliance with the terms of an applicable
79 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
80 Claims Bill of Rights must state:

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HOMEOWNER CLAIMS

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BILL OF RIGHTS

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This Bill of Rights is specific to the claims process
85 and does not represent all of your rights under
86 Florida law regarding your policy. There are also
87 exceptions to the stated timelines when conditions are
88 beyond your insurance company's control. This document
89 does not create a civil cause of action by an
90 individual policyholder, or a class of policyholders,
91 against an insurer or insurers and does not prohibit
92 an insurer from exercising its right to repair damaged
93 property in compliance with the terms of an applicable
94 policy.

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YOU HAVE THE RIGHT TO:

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1. Receive from your insurance company an
98 acknowledgment of your reported claim within 7 ~~14~~ days



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99 after the time you communicated the claim.

100 2. Upon written request, receive from your
101 insurance company within 15 ~~30~~ days after you have
102 submitted a complete proof-of-loss statement to your
103 insurance company, confirmation that your claim is
104 covered in full, partially covered, or denied, or
105 receive a written statement that your claim is being
106 investigated.

107 3. Within 45 ~~90~~ days, subject to any dual
108 interest noted in the policy, receive full settlement
109 payment for your claim or payment of the undisputed
110 portion of your claim, or your insurance company's
111 denial of your claim.

112 4. Free mediation of your disputed claim by the
113 Florida Department of Financial Services, Division of
114 Consumer Services, under most circumstances and
115 subject to certain restrictions.

116 5. Neutral evaluation of your disputed claim, if
117 your claim is for damage caused by a sinkhole and is
118 covered by your policy.

119 6. Contact the Florida Department of Financial
120 Services, Division of Consumer Services' toll-free
121 helpline for assistance with any insurance claim or
122 questions pertaining to the handling of your claim.
123 You can reach the Helpline by phone at...(toll-free
124 phone number)..., or you can seek assistance online at
125 the Florida Department of Financial Services, Division
126 of Consumer Services' website at...(website
127 address)....



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YOU ARE ADVISED TO:

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

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

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

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

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

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



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157 ===== T I T L E A M E N D M E N T =====

158 And the title is amended as follows:

159 Delete line 11

160 and insert:

161 applicability; amending s. 627.70131, F.S.; revising
162 the timeframe under which an insurer is required to
163 review and acknowledge a received communication with
164 respect to a claim; requiring a residential property
165 insurer to respond to a specified communication within
166 a specified timeframe; requiring a dated notification
167 indicating acknowledgment to made in the insurer's
168 claim file under certain circumstances; revising the
169 timeframe under which an insurer must pay or deny a
170 certain claim, except under certain circumstances,
171 before interest accrues on the payment; amending s.
172 627.7142, F.S.; revising the timeframe under which a
173 certain insurer must provide a Homeowner Claims Bill
174 of Rights to a policyholder after receiving a
175 specified communication; revising timeframes contained
176 in the Homeowner Claims Bill of Rights under which a
177 policyowner is entitled to receive a certain
178 acknowledgement, confirmation, and settlement payment;
179 providing an effective date.