

By Senator Hukill

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1 A bill to be entitled
 2 An act relating to the assignment of property
 3 insurance benefits; creating s. 627.7152, F.S.;
 4 defining the term "assignment agreement"; prohibiting
 5 certain awards of attorney fees to certain persons or
 6 entities in suits based on claims arising under
 7 property insurance policies; providing that an
 8 assignment agreement is not valid unless specified
 9 conditions are met; prohibiting certain provisions in
 10 an assignment agreement; specifying requirements for
 11 an assignee or transferee; requiring an assignee to
 12 meet certain requirements as a condition precedent to
 13 filing suit under a policy; providing construction;
 14 providing applicability; providing an effective date.

16 Be It Enacted by the Legislature of the State of Florida:

18 Section 1. Section 627.7152, Florida Statutes, is created
 19 to read:

20 627.7152 Assignment of property insurance post-loss
 21 benefits.-

22 (1) As used in this section, the term "assignment
 23 agreement" means any instrument by which post-loss property
 24 insurance benefits for services to protect, repair, restore, or
 25 replace property, or to mitigate against further damage to
 26 property, are assigned, transferred, or conveyed, regardless of
 27 how named or styled.

28 (2) Notwithstanding any other law, as to suits based on
 29 claims arising under property insurance policies, attorney fees

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30 may not be awarded under s. 627.428 or s. 626.9373 in favor of
31 any person or entity seeking relief against the insurer pursuant
32 to an assignment agreement.

33 (3) An assignment agreement is not valid unless it meets
34 all of the following requirements:

35 (a) The assignment agreement is in writing and is executed
36 by all named insureds;

37 (b) The assignment agreement contains a provision that
38 permits all named insureds to rescind the assignment agreement
39 without any penalty or rescission or cancellation fee within 7
40 business days after the date the assignment agreement is
41 executed by all named insureds;

42 (c) The assignment agreement contains a provision requiring
43 the assignee or transferee to provide a copy of the executed
44 assignment agreement to the insurer no later than 3 business
45 days after the assignment agreement is executed by any named
46 insured; and

47 (d) The assignment agreement contains a written, itemized,
48 per-unit cost estimate of the work to be performed by the
49 assignee or transferee.

50 (4) The following provisions may not be included in an
51 assignment agreement and are deemed to be invalid and
52 unenforceable against the property insurer or named insureds:

53 (a) A penalty or fee for rescission of the assignment
54 agreement pursuant to subsection (3);

55 (b) A check or mortgage processing fee;

56 (c) A penalty or fee for cancellation of the assignment
57 agreement; or

58 (d) An administrative fee.

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59 (5) As to claims arising under an assignment agreement, the
60 failure to comply with any provision of this subsection creates
61 a presumption that the insurer is prejudiced by such failure to
62 comply and shifts the burden in any proceeding or suit to the
63 party seeking benefits, rights, or proceeds from the insurer to
64 demonstrate that the insurer was not prejudiced. The assignee or
65 transferee must do all of the following:

66 (a) Maintain records of all services provided under the
67 assignment agreement;

68 (b) Cooperate with the insurer in the investigation of a
69 claim;

70 (c) Provide the insurer with any and all records and
71 documents requested related to services provided and permit the
72 insurer to make copies;

73 (d) Deliver a copy of the executed assignment agreement to
74 the insurer no later than 3 business days after the assignment
75 agreement is executed by all named insureds; and

76 (e) Concurrently with any request for payment of benefits
77 under the insurance policy, provide the insurer with a written,
78 itemized, per-unit cost statement of services actually performed
79 pursuant to the assignment agreement.

80 (6) As to claims arising under an assignment agreement, an
81 assignee must, as a condition precedent to filing a suit under
82 the policy:

83 (a) If required by the insurer, submit to examinations
84 under oath and recorded statements conducted by the insurer or
85 the insurer's representative which are limited to matters
86 related to the services provided, the costs of services, and the
87 assignment or transfer; and

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88 (b) Participate in an appraisal or other alternative
89 dispute resolution method in accordance with the terms of the
90 policy.

91 (7) An activity in compliance with subsections (5) and (6)
92 does not constitute practice as a public adjuster pursuant to
93 part VI of chapter 626.

94 (8) Notwithstanding any other law, the acceptance by a
95 person of any assignment agreement constitutes a waiver by the
96 assignee or transferee, and any subcontractor of the assignee or
97 transferee, of any and all claims against all named insureds for
98 payment arising from the specified loss, except that all named
99 insureds remain responsible for the payment of any deductible
100 amount provided for by the terms of the insurance policy and for
101 the cost of any betterment ordered by all named insureds. This
102 waiver remains in effect notwithstanding any subsequent
103 determination that the assignment agreement is invalid or the
104 rescission of the assignment agreement by all named insureds.

105 (9) This section does not permit an assignment agreement to
106 modify or eliminate any term, condition, or defense relating to
107 any managed repair arrangement provided for in the insurance
108 policy to which the assignment agreement relates.

109 (10) This section does not apply to:

110 (a) An assignment, transfer, or conveyance granted to a
111 subsequent purchaser of property who acquires an insurable
112 interest in the property following a loss;

113 (b) A power of attorney granted to a management company,
114 family member, guardian, or similarly situated person which
115 complies with chapter 709 and which may include, as part of the
116 authority granted, the authority to act on behalf of a principal

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117 as it relates to a property insurance claim; or

118 (c) Liability coverage under a property insurance policy.

119 (11) This section applies to assignment agreements that are
120 executed after July 1, 2017.

121 Section 2. This act shall take effect July 1, 2017.