

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 1218

INTRODUCER: Senator Farmer

SUBJECT: Property Repair

DATE: March 31, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	<b>Pre-meeting</b>
2.			RI	
3.			RC	

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**I. Summary:**

SB 1218 creates new requirements for assignment of post-loss benefits from personal residential and commercial residential property insurance policies. The bill allows an insurer to prohibit the assignment of post-loss benefits. The bill provides, however, that an insurer may not prohibit the post-loss assignment of benefits in a personal lines residential property insurance policy or a commercial residential property insurance policy. This would allow insurers to offer policies that prohibit the assignment of post-loss benefits in some other lines of insurance.

The bill places various requirements and restrictions on assignments of post-loss benefits in personal residential and commercial residential property insurance policies. It provides that an agreement to assign post-loss benefits is not valid unless the agreement:

- Is in writing between the policyholder and assignee and is delivered to the insurer under specified time requirements;
- Is limited to claims for work performed by the assignee for damage to dwellings or structures covered under the policy;
- Allows the policyholder to unilaterally rescind the assignment of post-loss benefits to a vendor if work has not yet begun or if the assignee fails to meet the standards required for such work; and
- Contains an accurate and up-to-date statement of the scope of work to be performed.

The bill provides that an assignee:

- Must provide the policyholder with accurate and up-to date revised statements of the scope of work to be performed as supplemental or additional repairs are required;
- Must guarantee to the policyholder that the work performed conforms to current and accepted industry standards;
- May not charge the policyholder more than the applicable deductible contained in the policy unless the policyholder opts for additional work at the policyholder's own expense;

- May not charge the policyholder directly, except for additional work not covered under the policy; and
- May not pay referral fees totaling more than \$750 in connection with the assignment.

In addition, for water damage claims, the assignee must be licensed or certified by the state or a private licensing entity to perform certain work.

The bill creates a regulatory system for professional water damage restorers. It requires the Department of Business and Professional Regulation (DBPR) to license professional water damage restorers if they are of good moral character, has specified insurance, and satisfies the Institute of Inspection, Cleaning, and Restoration Certification S500 standards.

## II. Present Situation:

### Background on Assignment of Benefits

An assignment is the voluntary transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer to recover the benefits.

Section 627.422, F.S., governs assignability of insurance contracts and provides that a policy may or may not be assignable according to its terms. In *Lexington Insurance Company v. Simkins Industries*,<sup>1</sup> the court held that a provision in an insurance contract prohibiting assignment was enforceable under the plain language of s. 627.422, F.S. The court explained that the purpose of a provision prohibiting assignment was to protect an insurer against unbargained-for risks.<sup>2</sup> However, an assignment made after the loss is valid even if the contract states otherwise.<sup>3</sup> In *Continental Casualty Company v. Ryan Incorporated*,<sup>4</sup> the court noted that it is a “well-settled rule that [anti-assignment provisions do] not apply to an assignment after loss.” A court explained that a rationale for post-loss assignments is that “assignment of the policy, or rights under the policy, before the loss is incurred transfers the insurer’s contractual relationship to a party with whom it never intended to contract, but an assignment after loss is simply the transfer of the right to a claim for money” and “has no effect upon the insurer’s duty under the policy.”<sup>5</sup>

Assignments have been prohibited by contract in other insurance contexts. In *Kohl v. Blue Cross Blue Shield of Florida, Inc.*,<sup>6</sup> the court found anti-assignment language was sufficiently clear and upheld language prohibiting the assignment of a health insurance claim. The court explained that anti-assignment clauses “prohibiting an insured’s assignments to out-of-network medical

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<sup>1</sup> 704 So.2d 1384 (Fla. 1998).

<sup>2</sup> *Id.* at 1386.

<sup>3</sup> *West Fla. Grocery Co. v. Teutonia Fire Ins. Co.*, 74 Fla. 220, 77 So. 209 (1917); *Gisela Inv., N.V. v. Liberty Mut. Ins. Co.*, 452 So.2d 1056 (Fla. 3d DCA 1984).

<sup>4</sup> 974 So.2d 368, 377 n. 7 (Fla. 2000).

<sup>5</sup> *Wehr Constructors, Inc. v. Assurance Company of America*, 384 S.W.3d 680, 683 (Ky. 2012).

<sup>6</sup> 955 So.2d 1140 (Fla. 4<sup>th</sup> DCA 2007).

providers are valuable tools in persuading health [care] providers to keep their costs down and as such override the general policy favoring the free alienability of choses in action.”<sup>7</sup>

Section 627.428, F.S., provides, in part:

Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured’s or beneficiary’s attorney prosecuting the suit in which the recovery is had.

This statute allows the insured to recover attorney’s fees if the insured prevails in an action against an insurer. A person who takes an assignment of benefits is entitled to attorney’s fees if that assignee prevails in an action against an insurer.<sup>8</sup>

### **Assignment of Benefits in Property Insurance Cases**

In recent years, insurers have complained of abuse of the assignment of benefits process. An insurance company recently described the issue in a court filing:

The typical scenario surrounding the use of an “assignment of benefits” involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured’s home and, before performing any work, required the insured to sign an “assignment of benefits” – when the insured would be most vulnerable to fraud and price gouging. Vendors advised the insured, “We’ll take care of everything for you.” The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits. Some vendors added to the invoice an additional 20 percent for “overhead and profit,” even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher settlements from insurers. This, in turn, significantly increases litigation over the vendors’ invoices.<sup>9</sup>

In a court filing in a different case, a company that provides emergency repair and construction services explained the rationale behind assignments of insurance benefits:

As a practical matter, a homeowner often will not be able to afford or hire a contractor immediately following a loss unless the contractor accepts an

<sup>7</sup> *Id.* at 1144-1145.

<sup>8</sup> *All Ways Reliable Bldg. Maint., Inc. v. Moore*, 261 So.2d 131 (Fla. 1972); *Allstate Insurance Co. v. Regar*, 942 So.2d 969 (Fla.2d DCA 2006).

<sup>9</sup> *Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case No. 1D14-1864 (Fla. 1<sup>st</sup> DCA), Appellant’s Initial Brief at pp. 3-4 (appellate record citations omitted).

assignment of benefits to ensure payment. A homeowner may be unable to comply with the ... provision requiring the homeowner to protect and repair the premises unless the remediation contractor accepts an assignment of benefits, however, contractors will become unwilling to accept payments by assignment if court decisions render the assignments unenforceable ...

Whether the repair invoice is routed through the insured or submitted by the service provider directly by assignment, the service provider's repair invoice is submitted to the insurer for coverage and reviewed by an adjuster. The only difference an assignment makes is that, if an insurance company wishes to partially deny coverage or contest an invoice as unreasonable, the insured policyholder is not mired in litigation in which he or she has no stake.<sup>10</sup>

There have been a number of cases in recent years where courts have held that post-loss benefits are assignable.<sup>11</sup>

Insurers have also reported increases in litigation by assignees in "auto glass" cases. In such cases, the assignee is usually a vendor that repairs or replaces automobile windshields. Section 627.7288, F.S., provides that the deductible provisions of a motor vehicle insurance policy are not applicable to damage to windshields. Insurers contend that assignment of benefits has caused an increase in litigation over damaged windshields.<sup>12</sup>

### **Data and Recommendations for Reform**

In 2015, the Office of Insurance Regulation did a data call to attempt to determine the effect of assignment of benefits in the insurance market. The OIR found that water losses alone could require rate increases of 10% per year.<sup>13</sup> One company reported that, in 2015, the claim cost of a claim with an assignment of benefits was 141 percent greater than the claim cost of a claim without an assignment of benefits.<sup>14</sup> The company reported 90 cases of suspected insurance fraud to the Department of Financial Services in 2015 and part of 2016.

Citizens Property Insurance Company recently reported that the percentage of claims litigated with an assignment of benefits increased from 9.6 percent in 2012 to 46.9 percent in 2015.<sup>15</sup> It projects that the average premium will increase in Miami-Dade County from \$2,926 to \$4,712 by

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<sup>10</sup> *One Call Property Services, Inc. v. Security First Insurance Company*, Case No. 4D14-0424 (Fla. 4<sup>th</sup> DCA), Appellant's Initial Brief at 46-48.

<sup>11</sup> *See, e.g., Security First Ins. Co. v. State of Florida Office of Insurance Regulation*, 177 So.3d 627, rehearing denied (Fla. 1<sup>st</sup> DCA 2015); *Bioscience W., Inc. v. Gulfstream Prop. & Cas. Ins. Co.*, 185 So.2d 638 (Fla.2d DCA 2016); *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749 (Fla. 4<sup>th</sup> DCA 2015); *Accident Cleaners, Inc. v. Universal Ins. Co.*, 186 So.3d 1 (Fla. 5<sup>th</sup> DCA 2015);

<sup>12</sup> Florida Justice Reform Institute, *Restoring Balance in Insurance Litigation* (October 2015) at pp. 19-23.

<sup>13</sup> Office of Insurance Regulation, *2015 Report on Review of the 2015 Assignment of Benefits Data Call* (February 8, 2016) at p. 8.

<sup>14</sup> Security First Insurance, *Troubled Water: An Analysis of Water Damage Claims and the Impact on Homeowner's Insurance Premiums in Florida* (July 20, 2016) at p. 13.

<sup>15</sup> Citizens Property Insurance Corporation, *Non-Catastrophic Homeowners Water Claims* (January 2016) at p. 3. The report can be found here: <https://www.citizensfla.com/documents/20702/1335431/20160121+White+Paper+Non-Catastrophic+Homeowners+Water+Claims.pdf/f66d4f43-e4cf-4e6e-b857-d457d761f5d6> (last accessed March 27, 2017).

2022, and in Broward County from \$2,390 to \$3,850 by 2022.<sup>16</sup> Citizens reports that water claims, including those that do not involve an assignment of benefits, have been increasing:

8,097 new lawsuits were filed against Citizens between January and November 2016, a 30 percent increase from the same period in 2015. Meanwhile, Citizens' policy count dropped by 26.3 percent between January 2015 and November 2016.<sup>17</sup>

Citizens noted that factors other than assignment of benefits contribute increase in the number of lawsuits. It noted that in many cases, it is made aware of a loss only after repairs are made or the policyholder has hired an attorney or a public adjuster.<sup>18</sup>

In a presentation to the Florida Cabinet on February 7, 2017, the State Insurance Commissioner explained that the frequency of water claims rose by 46 percent from 2010 to 2015 and the amount the insurers pay on those claims has increased 28 percent.<sup>19</sup> Data gathered in a data call by the Office of Insurance Regulation showed that the use of assignments of benefits has increased from 5.7 percent of the claims in 2010 to 15.9 percent of the claims in 2015.<sup>20</sup> The Commissioner continued:

Absent any other type of reform, absent any other type of coverage or other expense that might be present on an insurance policy, were these trends to continue unchecked, policyholders would expect to see about a 10 percent rate increase going forward just to keep up with the water trends that are covering their policy.<sup>21</sup>

The Commissioner recommended various reforms:

- Amending s. 627.428, F.S., to apply to insureds only and not to assignees;
- Consumer protections so that consumers are not left "holding the bag" if there is a dispute between the insurance company and a contractor; and
- Notice requirements so the insurer is aware of the assignment and can participate in the claims adjustment process.<sup>22</sup>

The First District Court of Appeal recently noted:

[W]e are not unmindful of the concerns that Security First expressed in support of [limiting assignment of benefits], providing evidence that inflated or fraudulent post-loss claims filed by remediation companies exceeded by thirty percent

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<sup>16</sup> Citizens Property Insurance Company, AOB Reform Makes Pocket Sense (on file with the Committee on Banking and Insurance).

<sup>17</sup> [https://www.citizensfla.com/-/20161207\\_bog-press-release](https://www.citizensfla.com/-/20161207_bog-press-release) (last accessed March 27, 2017).

<sup>18</sup> *Id.*

<sup>19</sup> Transcript of the Meeting of the Governor and Cabinet, February 7, 2017, at p. 11. The transcript can be found at <http://www.myflorida.com/myflorida/cabinet/agenda17/0207/transcript.pdf> (last accessed March 27, 2017).

<sup>20</sup> Office of Insurance Regulation, *2015 Report on Review of the 2015 Assignment of Benefits Data Call* (February 8, 2016) at p. 6 and 11.

<sup>21</sup> *Id.* at 11-12.

<sup>22</sup> *Id.* at 16-18.

comparable services; that policyholders may sign away their rights without understanding the implications; and that a "cottage industry" of "vendors, contractors, and attorneys" exists that use the "assignments of benefits and the threat of litigation" to "extract higher payments from insurers." These concerns, however, are matters of policy that we are ill-suited to address.<sup>23</sup>

The Fourth District Court of Appeal explained the competing policy arguments raised by the assignment of benefits issue:

Turning to the practical implications of this case, we note that this issue boils down to two competing public policy considerations. On the one side, the insurance industry argues that assignments of benefits allow contractors to unilaterally set the value of a claim and demand payment for fraudulent or inflated invoices. On the other side, contractors argue that assignments of benefits allow homeowners to hire contractors for emergency repairs immediately after a loss, particularly in situations where the homeowners cannot afford to pay the contractors up front.<sup>24</sup>

The court noted that if "studies show that these assignments are inviting fraud and abuse, then the legislature is in the best position to investigate and undertake comprehensive reform."<sup>25</sup>

## **Regulation of Water Remediation Companies**

### **The Sunrise Act**

A proposal for new regulation of a profession must meet the requirements in s. 11.62, F.S., the Sunrise Act. The act provides the intent of the Legislature that it should not:

- Subject a profession or occupation to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage; or
- Regulate a profession or occupation by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

In determining whether to regulate a profession or occupation, s. 11.62, F.S., requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;

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<sup>23</sup> *Security First Ins. Co. v. State of Florida Office of Insurance Regulation*, 177 So.3d 627, 628, rehearing denied (Fla. 1<sup>st</sup> DCA 2015).

<sup>24</sup> *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749, 755 (Fla. 4<sup>th</sup> DCA 2015).

<sup>25</sup> *Id.*

- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice, or who are practicing, a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Section 11.62(4), F.S., requires proponents of legislation regulating an occupation or profession to provide specified information. Section 11.62(5), F.S., requires the agency to provide information concerning the effect of proposed legislation. Section 11.62(6), F.S., requires legislative committees to consider whether the legislation is justified, whether it is the least restrictive and most cost-effective way to protect the public, and whether the legislation is technically sufficient.<sup>26</sup>

### **Regulation of Water Remediation Companies**

Water remediation companies are not regulated by the Department of Business and Professional Regulation.

### **Replacement Coverage**

Section 627.7011, F.S., requires an insurer, prior to issuing a homeowner's insurance policy, to offer each of the following:

- A policy providing that any loss that is repaired or replaced will be adjusted on the basis of replacement costs to the dwelling not exceeding policy limits, rather than actual cash value, but not including costs necessary to meet applicable laws and ordinances regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.
- A policy providing that, subject to other policy provisions, any loss that is repaired or replaced at any location will be adjusted on the basis of replacement costs to the dwelling not exceeding policy limits, rather than actual cash value, and also including costs necessary to meet applicable laws and ordinances regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.

Unless the insurer obtains the policyholder's written refusal of the policies or endorsements discussed above, any policy covering the dwelling is deemed to include the law and ordinance coverage limited to 25 percent of the dwelling limit.

In the event of a loss for which a dwelling or personal property is insured on the basis of replacement costs, the insurer must initially pay at least the actual cash value of the insured loss, less any applicable deductible. The insurer shall pay any remaining amounts necessary to perform such repairs as work is performed and expenses are incurred. If a total loss of a dwelling

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<sup>26</sup> While the Sunrise Act purports to place requirements on the legislature and its committees, "a legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law." *Neu v. Miami Herald Pub. Co.*, 462 So.2d 821 (Fla. 1985).

occurs, the insurer shall pay the replacement cost coverage without reservation or holdback of any depreciation in value.

### III. Effect of Proposed Changes:

#### Reforms Related to Assignment of Post-Loss Benefits

The bill amends s. 627.422, F.S., to allow an insurer to prohibit the assignment of post-loss benefits. The bill provides, however, that an insurer may not prohibit the post-loss assignment of benefits in a personal lines residential property insurance policy or a commercial residential property insurance policy. This would allow insurers to offer policies that prohibit the assignment of post-loss benefits in some other lines of insurance. For example, an auto insurer would be allowed, subject to approval by the Office of Insurance Regulation (OIR), to include a policy provision prohibiting the assignment of post-loss benefits of auto glass claims. It would allow a commercial lines insurer to include restrictions on assignment of post-loss benefits in its policies, subject to OIR approval.

The bill does not specify how this assignment provision would affect PIP. The PIP statute contain specific provisions that appear to contemplate assignments of benefits. *See e.g.* s. 627.736(6)(f), F.S.

#### Requirements to Assign Post-Loss Benefits under Residential Property Insurance Policies

The bill places various requirements and restrictions on assignments of post-loss benefits under personal residential and commercial residential property insurance policies. It provides that an agreement to assign post-loss benefits is not valid unless the agreement:

- Is in writing between the policyholder and assignee and is delivered to the insurer as provided by the bill;
- Is limited to claims for work performed by the assignee for damage to dwellings or structures covered under the policy;
- Allows the policyholder to unilaterally rescind the assignment of post-loss benefits to a vendor if work has not yet begun or if the assignee fails to meet the standards required for such work; provided, however, that the policyholder or insurer may be responsible for payment for work performed; and
- Contains an accurate and up-to-date statement of the scope of work to be performed.

An assignee:

- Must provide the policyholder with accurate and up-to date revised statements of the scope of work to be performed as supplemental or additional repairs are required;
- Must guarantee to the policyholder that the work performed conforms to current and accepted industry standards, including, but not limited to, the standards under this part;<sup>27</sup>
- May not charge the policyholder more than the applicable deductible contained in the policy unless the policyholder opts for additional work at the policyholder's own expense;

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<sup>27</sup> Section 627.422, F.S., is contained in part II of ch. 627, F.S. part II of chapter 627, F.S., does not contain standards related to home repairs.

- May not charge the policyholder directly, except for additional work not covered under the policy; and
- May not pay referral fees totaling more than \$750 in connection with the assignment.

In addition, for water damage claims, the assignee:

- Must be licensed in good standing under part XVI of ch. 468 or ch. 489 to perform any work requiring such a license;
- Must be certified in good standing with the Institute of Inspection Cleaning and Restoration Certification<sup>28</sup> to perform any work covered under the appropriate certification; and
- Must verify that any vendor it contracts with to perform work meets the applicable license and certification requirements.

The bill provides that an insurer must consider a person certified by the Institute of Inspection Cleaning and Restoration Certification (IICRC) to be a preferred vendor if it has a preferred vendor program.

The bill requires an assignee performing work on a water damage claim to be certified. Certification requires payment of a fee, completion of an application, and other requirements.<sup>29</sup>

The IICRC does not have instructors on staff or own schools. Instead, the IICRC approves schools and instructors that apply to and meet the criteria set forth by the board of directors. Individuals must attend an IICRC-approved course, successfully complete a written examination and document skills in the specific subject to become certified.<sup>30</sup> One IICRC course related to water damage is the Water Damage Restoration Technician course. The IICRC describes the course:

The Water Damage Restoration Technician course is designed to teach restoration personnel that perform remediation work to give them a better concept of water damage, its effects and techniques for drying of structures. This course will give residential and commercial maintenance personnel the background to understand the procedures necessary to deal with water losses, sewer backflows, and contamination such as mold. (3 day course; 19 hours, not including exam time, lunch and breaks).<sup>31</sup>

The IICRC describes its course on applied structural drying:

The IICRC-approved Applied Structural Drying course is designed to teach the effective, efficient and timely drying of water-damaged structures and contents, using comprehensive classroom and hands-on training, in order to facilitate appropriate decision making within a restorative drying environment. (3 day course; 21 hours, not including exam time, lunch and breaks).<sup>32</sup>

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<sup>28</sup> See <http://www.iicrc.org/>.

<sup>29</sup> <http://www.iicrc.org/about-us/faq/> (last accessed March 28, 2017).

<sup>30</sup> <http://www.iicrc.org/education-certification/course-schedule/> (last accessed March 28, 2017).

<sup>31</sup> <http://www.iicrc.org/education-certification/course-schedule/> (last accessed March 28, 2017).

<sup>32</sup> <http://www.iicrc.org/education-certification/course-schedule/> (last accessed March 28, 2017).

The bill requires an insurer to provide on its website and in the policy its contact information for receiving an agreement assigning post-loss benefits. It must include at least a dedicated facsimile number.

After executing the assignment agreement, the bill requires the assignee to deliver the agreement to the insurer within the later of:

- If a state of emergency was declared under s. 252.36, F.S., for a hurricane or other natural disaster and the property covered under the policy was damaged as a result of the hurricane or natural disaster, 7 days after the state of emergency is terminated; or
- Seven business days after execution of the agreement.

The bill requires the insurer to make any initial inspections of the covered property within the later of:

- If a state of emergency was declared under s. 252.36, F.S., for a hurricane or other natural disaster and the property covered under the policy was damaged as a result of the hurricane or natural disaster, 7 days after the state of emergency is terminated; or
- Seven business days after receiving the agreement.

The bill requires an insured or assignee to provide the insurer notice of intent to initiate litigation no later than 7 days before an insured or assignee initiates litigation against an insurer relating to a denied or limited claim.

### **Regulation of Water Remediation Companies**

The bill defines “professional water damage restorer” as any person who performs water damage restoration. It defines “water damage restoration” as water removal, demolition, dehumidification, or other treatment related to water damage or water-contaminated matter greater than 10 square feet.

The bill requires the DBPR to certify for licensure as a professional water damage restorer an applicant who:

- Is of good moral character;<sup>33</sup>
- Has the insurance coverage required under s. 468.8421, F.S.,<sup>34</sup> and
- Satisfies the Institute of Inspection, Cleaning, and Restoration Certification S500 standards.<sup>35</sup>

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<sup>33</sup> “Moral character” is not defined in the bill.

<sup>34</sup> The insurance requirements of s. 468.8421, F.S., are specific to mold assessors and may not apply to water damage restorers.

<sup>35</sup> The Department of Business and Professional Regulation expressed concern about this provision:

The only professional competence required for licensure by the bill is satisfaction of the Institute of Inspection, Cleaning, and Restoration Certification S500 standards. This is a Standard and Reference Guide for Professional Water Damage Restoration that can be purchased online for \$125.00 and is not a certification or competency standard. This guide is intended to be employed on each job and therefore the department would be unable to issue licenses pursuant to this requirement.

The bill provides that the prohibitions and penalties described in s. 468.8419, F.S., apply to a professional water damage restorer.

### **Replacement Cost Coverage**

The bill amends s. 627.7011, F.S., to prohibit an insurer from requiring that a particular vendor make repairs to a dwelling insured on the basis of replacement costs. It also prohibits the insurer from recommending or suggesting a particular vendor to make repairs to a dwelling insured on the basis of replacement costs.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

### **B. Private Sector Impact:**

Some persons who currently work in water remediation may not be certified by the IICRC.

### **C. Government Sector Impact:**

The Department of Business and Professional Regulation provided an analysis of the licensing provisions of the bill. Issues raised by the DBPR:

- The DBPR estimates there are approximately 1,220 water restoration businesses in Florida. It estimates that each business would have 3-4 employees that would require a license. It estimates that it would need additional government analyst positions to do work related to additional licensees, an additional regulatory specialist II in the License Operations Unit, and an investigation specialist II to conduct investigations.
- It estimates it will need two OPS positions to deal with the initial licensure but those positions will not be permanent.
- The bill will require changes in the DBPR's Versa system. The DBPR believes the modifications can be made using existing resources but the changes and rulemaking will be difficult to complete by the effective date.

The DBPR forecasts an increase in revenue of \$315,000 to \$525,000 biennially with expenditures of \$287,274 in the first year and \$256,476 recurring.

**VI. Technical Deficiencies:**

Lines 36-61 of the bill create a license for professional water damage restorer but the bill does not require anyone to obtain the license before engaging in the work.

Lines 60-61 of the bill provide that the prohibitions and penalties described in s. 468.8419, F.S., apply to professional water damage restorers. Section 468.8419, F.S., contains provisions narrowly drawn to mold assessors and those provisions are not applicable to water damage restorers.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 468.8411, 468.8414, 627.422, and 627.7011.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.