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LEGISLATIVE ACTION

Senate

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House

The Committee on Rules (Farmer) recommended the following:

1 **Senate Substitute for Amendment (846406) (with title**
2 **amendment)**

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4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (11) is added to section 627.062,
7 Florida Statutes, to read:

8 627.062 Rate standards.—

9 (11) Attorney fees and costs paid by a property insurer
10 pursuant to s. 627.428 may not be included in the property
11 insurer's rate base and may not be used to justify a rate



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12 increase or rate change.

13 Section 2. Section 627.422, Florida Statutes, is amended to
14 read:

15 627.422 Assignment of policies or post-loss benefits.-A
16 policy may be assignable, or not assignable, as provided by its
17 terms.

18 (1) LIFE OR HEALTH INSURANCE POLICIES.-Subject to its terms
19 relating to assignability, any life or health insurance policy
20 under the terms of which the beneficiary may be changed upon the
21 sole request of the policyowner may be assigned either by pledge
22 or transfer of title, by an assignment executed by the
23 policyowner alone and delivered to the insurer, whether or not
24 the pledgee or assignee is the insurer. Any such assignment
25 shall entitle the insurer to deal with the assignee as the owner
26 or pledgee of the policy in accordance with the terms of the
27 assignment, until the insurer has received at its home office
28 written notice of termination of the assignment or pledge or
29 written notice by or on behalf of some other person claiming
30 some interest in the policy in conflict with the assignment.

31 (2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE
32 POLICIES.-A personal lines residential property insurance
33 policy, a commercial residential property insurance policy, or a
34 commercial property insurance policy may not prohibit or limit
35 the post-loss assignment of benefits. This subsection does not
36 affect the assignment of benefits in other insurance policies.

37 (a) An agreement to assign post-loss benefits under this
38 subsection is not valid unless the agreement:

39 1. Is in writing between the policyholder and assignee and
40 is delivered to the insurer as provided in paragraph (c);



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41 2. Is limited to claims for work performed or to be
42 performed by the assignee for damages claimed to be covered;
43 3. Allows the policyholder to unilaterally cancel the
44 assignment of post-loss benefits without penalty or obligation
45 within 7 days after the execution of the assignment by an
46 insured; provided, however, that the policyholder or insurer may
47 be responsible for payment for work already performed during
48 such period;
49 4. Contains an accurate and up-to-date statement of the
50 scope of work to be performed;
51 5. Includes proof that the assignee possesses a valid
52 certification from an entity that requires water damage
53 remediation to be performed according to a standard approved by
54 the American National Standards Institute; and
55 6. Contains the following notice in at least 14-point,
56 capitalized type:
57
58 YOU ARE AUTHORIZING THE ASSIGNEE OF YOUR POLICY TO COMMUNICATE
59 WITH YOUR INSURANCE COMPANY ON YOUR BEHALF. THIS ASSIGNMENT
60 GIVES YOUR ASSIGNEE THE PRIMARY AUTHORITY TO NEGOTIATE WITH YOUR
61 INSURANCE COMPANY ON YOUR BEHALF. PLEASE READ AND UNDERSTAND
62 THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL
63 THIS AGREEMENT WITHOUT PENALTY OR OBLIGATION WITHIN 7 DAYS AFTER
64 THE DATE THIS AGREEMENT IS EXECUTED. SHOULD YOU CANCEL THIS
65 AGREEMENT, YOU OR YOUR INSURER MAY BE RESPONSIBLE FOR ANY WORK
66 THAT HAS ALREADY BEEN PERFORMED. THIS AGREEMENT DOES NOT CHANGE
67 YOUR OBLIGATION TO PERFORM THE DUTIES UNDER YOUR PROPERTY
68 INSURANCE POLICY.
69 (b) An assignee of post-loss benefits under this



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70 subsection:

71 1. Must provide the policyholder with accurate and up-to-
72 date revised statements of the scope of work to be performed as
73 supplemental or additional repairs are required, and must
74 provide to the policyholder and insurer a final invoice and bill
75 for service rendered within 7 business days after the date on
76 which the work was completed;

77 2. Must guarantee to the policyholder that the work
78 performed conforms to current and accepted industry standards;

79 3. May not charge the policyholder more than the applicable
80 deductible contained in the policy unless the policyholder opts
81 for additional work or betterment of materials at the
82 policyholder's own expense;

83 4. May not pay referral fees totaling more than \$750 in
84 connection with the assignment; and

85 5. May not charge the policyholder directly, except for
86 additional work not covered under the policy which includes:

87 a. Work performed that is rightfully denied as not covered;
88 and

89 b. Betterments or additional work not part of the loss.

90 (c) An insurer shall provide on its website and in the
91 policy its contact information for receiving the agreement that
92 meets the requirements of paragraph (a). The contact information
93 must include at least a dedicated facsimile number. After
94 executing the assignment agreement, the assignee must deliver
95 the agreement to the insurer within the later of:

96 1. If a state of emergency was declared under s. 252.36 for
97 a hurricane or other natural disaster and the property covered
98 under the policy was damaged as a result of the hurricane or



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99 natural disaster, 7 days after the state of emergency is
100 terminated; or
101 2. Seven business days after execution of the agreement.
102 (d) Notwithstanding s. 627.70131, upon receiving the
103 agreement in paragraph (a), the insurer must make any initial
104 inspections of the covered property within the later of:
105 1. If a state of emergency was declared under s. 252.36 for
106 a hurricane or other natural disaster and the property covered
107 under the policy was damaged as a result of the hurricane or
108 natural disaster, 7 days after the state of emergency is
109 terminated; or
110 2. Seven business days after receiving the agreement.
111 (e) No later than 7 days before an insured or assignee
112 initiates litigation against an insurer relating to a denied or
113 limited claim, the insured or assignee must provide the insurer
114 with notice of intent to initiate such litigation. The notice of
115 intent must include a copy of the final invoice required under
116 subparagraph (b)1 for the work that has been performed or an
117 estimate of the work to be performed. This paragraph does not
118 increase the time periods prescribed in s. 627.70131.
119 (f) Notwithstanding any other law, in a dispute relating to
120 the assignment of benefits for a personal lines residential
121 property insurance policy, commercial residential property
122 insurance policy, or commercial property insurance policy in
123 which an assignee but not the named insured is a party, for any
124 proposal for settlement made to a plaintiff, such proposal shall
125 be served no earlier than 10 days after the date of commencement
126 of the action.
127 (g) This section does not apply to:



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128 1. An assignment, transfer, or conveyance granted to a
129 subsequent purchaser of the property with an insurable interest
130 in the property following a loss;

131 2. A power of attorney under chapter 709 which grants to a
132 management company, family member, guardian, or similarly
133 situated person of an insured the authority to act on behalf of
134 an insured as it relates to a property insurance claim; or

135 3. Liability coverage under a property insurance policy.

136 (3) ANNUAL REPORT.—The office shall require each insurer to
137 report by March 31, 2019, and each year thereafter, data on each
138 claim paid in the prior calendar year pursuant to an assignment
139 agreement. Such data must include, but are not limited to:

140 (a) The number of days between the first notice of loss and
141 the initial inspection.

142 (b) Loss severity.

143 (c) Allocated loss adjustment expense.

144 (d) For litigated claims:

145 1. Any amount paid before litigation, the amount in
146 dispute, the amount of any proposal for settlement, and the
147 settlement or judgment amount;

148 2. The amount of fees paid to the claimant's attorney; and

149 3. The amount and structure, whether fixed, hourly, or
150 contingent, of fees paid to the insurer's attorney.

151
152 All information the insurer reports under this paragraph must
153 first be reported to the opposing counsel on the litigated claim
154 for verification or certification. The opposing counsel on the
155 litigated claim shall report to the office its agreement or
156 disagreement with the accuracy of the figures reported.



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157 (e) For nonlitigated claims, the difference between the
158 insurer's initial offer and the amount paid on the claim.

159 (f) The time from the first notice of loss until the claim
160 was closed.

161 (g) For claims involving water damage, whether the adjuster
162 possessed certification from an entity that requires water
163 damage remediation to be performed according to a standard
164 approved by the American National Standards Institute.

165 Section 3. The amendments made by this act to s. 627.422,
166 Florida Statutes, apply to assignment agreements entered into on
167 or after January 1, 2018.

168 Section 4. Paragraph (a) of subsection (3) of section
169 627.7011, Florida Statutes, is amended to read:

170 627.7011 Homeowners' policies; offer of replacement cost
171 coverage and law and ordinance coverage.—

172 (3) In the event of a loss for which a dwelling or personal
173 property is insured on the basis of replacement costs:

174 (a) For a dwelling:—

175 1. The insurer must initially pay at least the actual cash
176 value of the insured loss, less any applicable deductible. The
177 insurer shall pay any remaining amounts necessary to perform
178 such repairs as work is performed and expenses are incurred. If
179 a total loss of a dwelling occurs, the insurer shall pay the
180 replacement cost coverage without reservation or holdback of any
181 depreciation in value, pursuant to s. 627.702.

182 2. The insurer may not require that a particular vendor
183 make repairs to such dwelling.

184 3. The insurer may not, unless expressly requested by the
185 insured, recommend or suggest a particular vendor for repairs to



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186 be made to such dwelling.

187 Section 5. This act shall take effect January 1, 2018.

188

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

190 And the title is amended as follows:

191 Delete everything before the enacting clause

192 and insert:

193 A bill to be entitled
194 An act relating to insurance; amending s. 627.062,
195 F.S.; prohibiting certain attorney fees and costs paid
196 by a property insurer from being included in such
197 insurer's rate base and from being used to justify a
198 rate increase or rate change; amending s. 627.422,
199 F.S.; prohibiting certain property insurance policies
200 from prohibiting or limiting the post-loss assignment
201 of benefits; providing that an assignment agreement is
202 not valid unless it meets specified requirements;
203 providing requirements and limitations for assignees
204 of post-loss benefits; requiring insurers to provide
205 specified contact information on their websites and in
206 policies; requiring assignees to deliver an executed
207 assignment agreement to insurers within a specified
208 timeframe; requiring insurers, upon receiving such
209 agreements, to make any initial inspections of covered
210 property within specified timeframes; requiring
211 insureds or assignees to provide a certain
212 prelitigation notice and invoice to insurers within a
213 specified timeframe; providing construction; requiring
214 certain settlement proposals to a plaintiff to be



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215 served no earlier than a specified time; providing
216 applicability; requiring the Office of Insurance
217 Regulation to require each insurer to report at
218 specified timeframes certain data relating to claims
219 paid pursuant to assignment agreements; requiring
220 insurers to report certain information to opposing
221 counsel, and requiring the opposing counsel to verify
222 or certify the information; providing applicability of
223 the amendments made by the act; amending s. 627.7011,
224 F.S.; prohibiting specified acts of insurers relating
225 to homeowners' insurance policies under certain
226 circumstances; providing an effective date.