



979514

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

627.062 Rate standards.—

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



979514

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

14 627.422 Assignment of policies or post-loss benefits.—A
15 policy may be assignable, or not assignable, as provided by its
16 terms.

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

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

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

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

40 2. Is limited to claims for work performed or to be



979514

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



979514

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

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

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

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

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

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

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

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

95 1. If a state of emergency was declared under s. 252.36 for
96 a hurricane or other natural disaster and the property covered
97 under the policy was damaged as a result of the hurricane or
98 natural disaster, 7 days after the state of emergency is



979514

99 terminated; or

100 2. Seven business days after execution of the agreement.

101 (d) Notwithstanding s. 627.70131, upon receiving the
102 agreement in paragraph (a), the insurer must make any initial
103 inspections of the covered property within the later of:

104 1. If a state of emergency was declared under s. 252.36 for
105 a hurricane or other natural disaster and the property covered
106 under the policy was damaged as a result of the hurricane or
107 natural disaster, 7 days after the state of emergency is
108 terminated; or

109 2. Seven business days after receiving the agreement.

110 (e) No later than 7 days before an insured or assignee
111 initiates litigation against an insurer relating to a denied or
112 limited claim, the insured or assignee must provide the insurer
113 with notice of intent to initiate such litigation. The notice of
114 intent must include a copy of the final invoice required under
115 subparagraph (b)1 for the work that has been performed or an
116 estimate of the work to be performed. This paragraph does not
117 increase the time periods prescribed in s. 627.70131.

118 (f) Notwithstanding any other law, in a dispute relating to
119 the assignment of benefits for a personal lines residential
120 property insurance policy, commercial residential property
121 insurance policy, or commercial property insurance policy in
122 which an assignee but not the named insured is a party, for any
123 proposal for settlement made to a plaintiff, such proposal shall
124 be served no earlier than 10 days after the date of commencement
125 of the action.

126 (g) This section does not apply to:

127 1. An assignment, transfer, or conveyance granted to a



979514

128 subsequent purchaser of the property with an insurable interest
129 in the property following a loss;

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

134 3. Liability coverage under a property insurance policy.

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

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

141 (b) Loss severity.

142 (c) Allocated loss adjustment expense.

143 (d) For litigated claims:

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

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

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

150
151 All information the insurer reports under this paragraph must
152 first be reported to the opposing counsel on the litigated claim
153 for verification or certification. The opposing counsel on the
154 litigated claim shall report to the office its agreement or
155 disagreement with the accuracy of the figures reported.

156 (e) For nonlitigated claims, the difference between the



979514

157 insurer's initial offer and the amount paid on the claim.

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

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

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

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

169 627.7011 Homeowners' policies; offer of replacement cost
170 coverage and law and ordinance coverage.-

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

173 (a) For a dwelling:

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

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

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



979514

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

187

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

189 And the title is amended as follows:

190 Delete everything before the enacting clause
191 and insert:

192 A bill to be entitled
193 An act relating to property insurance; amending s.
194 627.062, F.S.; prohibiting certain attorney fees and
195 costs paid by a property insurer from being included
196 in such insurer's rate base and from being used to
197 justify a rate increase or rate change; amending s.
198 627.422, F.S.; prohibiting certain property insurance
199 policies from prohibiting or limiting the post-loss
200 assignment of benefits; providing that an assignment
201 agreement is not valid unless it meets specified
202 requirements; providing requirements and limitations
203 for assignees of post-loss benefits; requiring
204 insurers to provide specified contact information on
205 their websites and in policies; requiring assignees to
206 deliver an executed assignment agreement to insurers
207 within a specified timeframe; requiring insurers, upon
208 receiving such agreements, to make any initial
209 inspections of covered property within specified
210 timeframes; requiring insureds or assignees to provide
211 a certain prelitigation notice and invoice to insurers
212 within a specified timeframe; providing construction;
213 requiring certain settlement proposals to a plaintiff
214 to be served no earlier than a specified time;



979514

215 providing applicability; requiring the Office of
216 Insurance Regulation to require each insurer to report
217 at specified timeframes certain data relating to
218 claims paid pursuant to assignment agreements;
219 requiring insurers to report certain information to
220 opposing counsel, and requiring the opposing counsel
221 to verify or certify the information; providing
222 applicability of the amendments made by the act;
223 amending s. 627.7011, F.S.; prohibiting specified acts
224 of insurers relating to homeowners' insurance policies
225 under certain circumstances; providing an effective
226 date.