



422902

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Broxson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

627.7152 Assignment of property insurance post-loss  
benefits.—

(1) As used in this section, the term "assignment  
agreement" means any instrument by which post-loss property



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11 insurance benefits for services to protect, repair, restore, or  
12 replace property, or to mitigate against further damage to  
13 property, are assigned, transferred, or conveyed, regardless of  
14 how named or styled.

15 (2) Notwithstanding any other law, as to suits based on  
16 claims arising under property insurance policies, attorney fees  
17 may not be awarded under s. 626.9373 or s. 627.428 in favor of  
18 any person or entity seeking relief against an insurer pursuant  
19 to an assignment agreement, but may be awarded only under s.  
20 57.105 or s. 768.79 in favor of any person or entity seeking  
21 relief against the insurer pursuant to an assignment agreement.

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

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

26 (b) The assignment agreement contains a provision that  
27 permits all named insureds to rescind the assignment agreement  
28 without any penalty or rescission or cancellation fee within 7  
29 business days after the date the assignment agreement is  
30 executed by all named insureds;

31 (c) The assignment agreement contains a provision requiring  
32 the assignee or transferee to provide a copy of the executed  
33 assignment agreement to the insurer no later than 3 business  
34 days after the assignment agreement is executed by any named  
35 insured; and

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

39 (4) The following provisions may not be included in an



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40 assignment agreement and are deemed to be invalid and  
41 unenforceable against the property insurer or named insureds:  
42 (a) A penalty or fee for rescission of the assignment  
43 agreement pursuant to subsection (3);  
44 (b) A check or mortgage processing fee;  
45 (c) A penalty or fee for cancellation of the assignment  
46 agreement pursuant to subsection (3); or  
47 (d) An administrative fee.  
48 (5) As to claims arising under an assignment agreement, the  
49 failure to comply with any provision of this subsection creates  
50 a presumption that the insurer is prejudiced by such failure to  
51 comply and shifts the burden in any proceeding or suit to the  
52 party seeking benefits, rights, or proceeds from the insurer to  
53 demonstrate that the insurer was not prejudiced. The assignee or  
54 transferee must do all of the following:  
55 (a) Maintain records of all services provided under the  
56 assignment agreement;  
57 (b) Cooperate with the insurer in the investigation of a  
58 claim;  
59 (c) Provide the insurer with any and all records and  
60 documents requested related to services provided and permit the  
61 insurer to make copies;  
62 (d) Deliver a copy of the executed assignment agreement to  
63 the insurer no later than 3 business days after the assignment  
64 agreement is executed by all named insureds; and  
65 (e) Concurrently with any request for payment of benefits  
66 under the insurance policy, provide the insurer with a written,  
67 itemized, per-unit cost statement of services actually performed  
68 pursuant to the assignment agreement.



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69       (6) As to claims arising under an assignment agreement, an  
70 assignee must, as a condition precedent to filing a suit under  
71 the policy:

72       (a) If required by the insurer, submit to examinations  
73 under oath and recorded statements conducted by the insurer or  
74 the insurer's representative which are limited to matters  
75 related to the services provided, the costs of services, and the  
76 assignment or transfer; and

77       (b) Participate in an appraisal or other alternative  
78 dispute resolution method in accordance with the terms of the  
79 policy.

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

83       (8) Notwithstanding any other law, the acceptance by a  
84 person of any assignment agreement constitutes a waiver by the  
85 assignee or transferee, and any subcontractor of the assignee or  
86 transferee, of any and all claims against all named insureds for  
87 payment arising from the specified loss, except that all named  
88 insureds remain responsible for the payment of any deductible  
89 amount provided for by the terms of the insurance policy and for  
90 the cost of any betterment ordered by all named insureds. This  
91 waiver remains in effect notwithstanding any subsequent  
92 determination that the assignment agreement is invalid or the  
93 rescission of the assignment agreement by all named insureds.

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



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- 98           (10) This section does not apply to:  
99           (a) An assignment, transfer, or conveyance granted to a  
100 subsequent purchaser of property who acquires an insurable  
101 interest in the property following a loss;  
102           (b) A power of attorney granted to a management company,  
103 family member, guardian, or similarly situated person which  
104 complies with chapter 709 and which may include, as part of the  
105 authority granted, the authority to act on behalf of a principal  
106 as it relates to a property insurance claim; or  
107           (c) Liability coverage under a property insurance policy.  
108           (11) This section applies to assignment agreements that are  
109 executed after July 1, 2018.

110           Section 2. To ensure that insurers are incorporating  
111 adjusted loss trends into rates after July 1, 2018, a property  
112 insurer that is subject to s. 627.0645, Florida Statutes, in the  
113 year after July 1, 2018, may not certify a rate pursuant to s.  
114 627.0645(3)(b), Florida Statutes, but must make a full filing  
115 pursuant to s. 627.0645(3)(a), Florida Statutes, to meet the  
116 annual filing requirement under that section.

117           Section 3. This act shall take effect July 1, 2018.

118  
119 ===== T I T L E   A M E N D M E N T =====

120 And the title is amended as follows:

121           Delete everything before the enacting clause  
122 and insert:

123                           A bill to be entitled  
124           An act relating to the assignment of property  
125           insurance benefits; creating s. 627.7152, F.S.;;  
126           defining the term "assignment agreement"; prohibiting



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127 certain awards of attorney fees to certain persons or  
128 entities in suits brought against insurers based on  
129 claims arising under property insurance policies;  
130 providing that attorney fees may be awarded to such  
131 persons or entities only under specified provisions;  
132 providing that an assignment agreement is not valid  
133 unless specified requirements are met; prohibiting  
134 certain provisions in an assignment agreement;  
135 specifying requirements for an assignee or transferee;  
136 requiring an assignee to meet certain requirements as  
137 a condition precedent to filing suit under a policy;  
138 providing construction; providing applicability;  
139 providing that certain property insurers, within a  
140 specified timeframe, must make full annual base rate  
141 filings with the Office of Insurance Regulation rather  
142 than certifying rates; providing an effective date.