

By Senator Lee

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1 A bill to be entitled
2 An act relating to property insurance; creating s.
3 627.70191, F.S.; providing applicability; prohibiting
4 property insurers who fail to make inspections within
5 a specified timeframe from denying or limiting
6 payments for certain hurricane-related claims under
7 certain circumstances; specifying requirements
8 property insurers must meet before they may require
9 policyholders to submit proof of loss, under certain
10 circumstances; amending s. 627.7073, F.S.; requiring
11 real property owners and lessors to disclose certain
12 sinkhole reports and certifications in lease or lease-
13 purchase agreements with tenants or tenant-buyers of
14 the real properties; providing applicability; amending
15 s. 627.7142, F.S.; revising circumstances under which
16 personal lines residential property insurers must
17 provide policyholders with the Homeowner Claims Bill
18 of Rights; requiring such insurers to include a
19 specified addendum under certain circumstances;
20 specifying the rights, responsibilities, and notices
21 the addendum must contain; revising construction;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 627.70191, Florida Statutes, is created
27 to read:

28 627.70191 Insurer restrictions relating to certain
29 hurricanes.-

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30 (1) This section applies to a claim for a loss that occurs
31 during a hurricane as defined in s. 627.4025(2) for which the
32 Governor declares a state of emergency by executive order or
33 proclamation under s. 252.36 which identifies the state of
34 emergency as being due to a catastrophic disaster.

35 (2) If an insurer does not inspect the policyholder's
36 premises within 45 days after the insurer receives notice of the
37 claim in accordance with the terms of the policy, the insurer
38 may not deny any covered claim or limit any payment based on
39 repairs made or ordered by the policyholder to protect the
40 property from further damage or to otherwise mitigate the loss.

41 (3) An insurer may not require a policyholder to submit
42 proof of loss unless the insurer:

43 (a) Provides the policyholder with written notice of the
44 requirement along with a form for specifying proof of loss; and

45 (b) Allows the policyholder at least 60 days after
46 receiving the notice and form to complete and return the form to
47 the insurer.

48 Section 2. Paragraph (d) is added to subsection (2) of
49 section 627.7073, Florida Statutes, to read:

50 627.7073 Sinkhole reports.-

51 (2) An insurer that has paid a claim for a sinkhole loss
52 shall file a copy of the report and certification, prepared
53 pursuant to subsection (1), including the legal description of
54 the real property and the name of the property owner, the
55 neutral evaluator's report, if any, which indicates that
56 sinkhole activity caused the damage claimed, a copy of the
57 certification indicating that stabilization has been completed,
58 if applicable, and the amount of the payment, with the county

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59 clerk of court, who shall record the report and certification.
60 The insurer shall bear the cost of filing and recording one or
61 more reports and certifications. There shall be no cause of
62 action or liability against an insurer for compliance with this
63 section.

64 (d) An owner or lessor of real property upon which a
65 sinkhole claim has been made by the owner or lessor and paid by
66 the insurer shall disclose the sinkhole report and certification
67 in the lease or lease-purchase agreement with the tenant or
68 tenant-buyer of the real property. This paragraph does not apply
69 to a nonresidential tenancy under part I of chapter 83 or a
70 transient occupancy as defined in s. 83.43.

71 Section 3. Section 627.7142, Florida Statutes, is amended
72 to read:

73 627.7142 Homeowner Claims Bill of Rights.—An insurer
74 issuing a personal lines residential property insurance policy
75 in this state must provide a Homeowner Claims Bill of Rights to
76 a policyholder within 14 days after receiving an initial
77 communication with respect to a claim, ~~unless the claim follows~~
78 ~~an event that is the subject of a declaration of a state of~~
79 ~~emergency by the Governor.~~ If the claim is for a loss that
80 occurred during a hurricane as defined in s. 627.4025(2) for
81 which the Governor declared a state of emergency by executive
82 order or proclamation under s. 252.36 which identified the state
83 of emergency as being due to a catastrophic disaster, the
84 Homeowner Claims Bill of Rights must also include the addendum
85 specified in subsection (2). The purpose of the bill of rights
86 is to summarize, in simple, nontechnical terms, existing Florida
87 law regarding the rights of a personal lines residential

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88 property insurance policyholder who files a claim of loss. The
89 Homeowner Claims Bill of Rights is specific to the claims
90 process and does not represent all of a policyholder's rights
91 under Florida law regarding the insurance policy. The Homeowner
92 Claims Bill of Rights or the addendum specified in subsection
93 (2) does not create a civil cause of action by any individual
94 policyholder or class of policyholders against an insurer or
95 insurers. The failure of an insurer to properly deliver the
96 Homeowner Claims Bill of Rights or the addendum specified in
97 subsection (2) is subject to administrative enforcement by the
98 office but is not admissible as evidence in a civil action
99 against an insurer. The Homeowner Claims Bill of Rights or the
100 addendum specified in subsection (2) does not enlarge, modify,
101 or contravene statutory requirements, including, but not limited
102 to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074,
103 and does not prohibit an insurer from exercising its right to
104 repair damaged property in compliance with the terms of an
105 applicable policy or ss. 627.7011(5)(e) and 627.702(7).

106 (1) The Homeowner Claims Bill of Rights must state:

107
108 HOMEOWNER CLAIMS

109 BILL OF RIGHTS

110 This Bill of Rights is specific to the claims process
111 and does not represent all of your rights under
112 Florida law regarding your policy. There are also
113 exceptions to the stated timelines when conditions are
114 beyond your insurance company's control. This document
115 does not create a civil cause of action by an
116 individual policyholder, or a class of policyholders,

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117 against an insurer or insurers and does not prohibit
118 an insurer from exercising its right to repair damaged
119 property in compliance with the terms of an applicable
120 policy.

121

122 YOU HAVE THE RIGHT TO:

123 1. Receive from your insurance company an
124 acknowledgment of your reported claim within 14 days
125 after the time you communicated the claim.

126 2. Upon written request, receive from your
127 insurance company within 30 days after you have
128 submitted a complete proof-of-loss statement to your
129 insurance company, confirmation that your claim is
130 covered in full, partially covered, or denied, or
131 receive a written statement that your claim is being
132 investigated.

133 3. Within 90 days, subject to any dual interest
134 noted in the policy, receive full settlement payment
135 for your claim or payment of the undisputed portion of
136 your claim, or your insurance company's denial of your
137 claim.

138 4. Free mediation of your disputed claim by the
139 Florida Department of Financial Services, Division of
140 Consumer Services, under most circumstances and
141 subject to certain restrictions.

142 5. Neutral evaluation of your disputed claim, if
143 your claim is for damage caused by a sinkhole and is
144 covered by your policy.

145 6. Contact the Florida Department of Financial

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146 Services, Division of Consumer Services' toll-free
147 helpline for assistance with any insurance claim or
148 questions pertaining to the handling of your claim.
149 You can reach the Helpline by phone at...(toll-free
150 phone number)..., or you can seek assistance online at
151 the Florida Department of Financial Services, Division
152 of Consumer Services' website at...(website
153 address)....

154

155 YOU ARE ADVISED TO:

156 1. Contact your insurance company before entering
157 into any contract for repairs to confirm any managed
158 repair policy provisions or optional preferred
159 vendors.

160 2. Make and document emergency repairs that are
161 necessary to prevent further damage. Keep the damaged
162 property, if feasible, keep all receipts, and take
163 photographs of damage before and after any repairs.

164 3. Carefully read any contract that requires you
165 to pay out-of-pocket expenses or a fee that is based
166 on a percentage of the insurance proceeds that you
167 will receive for repairing or replacing your property.

168 4. Confirm that the contractor you choose is
169 licensed to do business in Florida. You can verify a
170 contractor's license and check to see if there are any
171 complaints against him or her by calling the Florida
172 Department of Business and Professional Regulation.
173 You should also ask the contractor for references from
174 previous work.

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- 175 5. Require all contractors to provide proof of
- 176 insurance before beginning repairs.
- 177 6. Take precautions if the damage requires you to
- 178 leave your home, including securing your property and
- 179 turning off your gas, water, and electricity, and
- 180 contacting your insurance company and provide a phone
- 181 number where you can be reached.

182

183 (2) The Homeowner Claims Bill of Rights addendum must

184 state:

185 HOMEOWNER CLAIMS

186 BILL OF RIGHTS ADDENDUM

187

188 ADDITIONAL RIGHTS, RESPONSIBILITIES, AND NOTICES

189 RELATING TO HURRICANES, NATURAL DISASTERS, AND OTHER

190 EMERGENCIES

191 1. If your dwelling or property was damaged as a

192 result of the hurricane or disaster, your insurance

193 company may not cancel or nonrenew your policy for a

194 period of 90 days after your dwelling or property has

195 been repaired. However, this does not apply in cases

196 of nonpayment of premium or material misstatement or

197 fraud related to the claim, if your insurance company

198 determines that you have unreasonably caused a delay

199 in repair to your dwelling, or if the insurance

200 company has already paid the limit of your policy.

201 2. If a cancellation or nonrenewal of your policy

202 takes effect during a hurricane, the effective date of

203 the cancellation or nonrenewal is extended until 72

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204 hours following the termination of the last hurricane
205 watch or hurricane warning issued for any part of
206 Florida by the National Hurricane Center of the
207 National Weather Service. Your insurance company may
208 collect a premium for this extended period. This
209 extension does not apply to certain replacement
210 coverages.

211 3. You must make any claim, supplemental claim,
212 or reopened claim under this policy for loss or damage
213 caused by windstorm or hurricane under the policy
214 within 3 years after the hurricane first made landfall
215 or the windstorm caused the covered damage.

216 4. Within 45 days after your insurance company
217 receives notice of your claim for damage caused by a
218 hurricane or other natural disaster, your insurance
219 company must inspect your premises. If your insurance
220 company fails to do so, it may not deny any covered
221 claim or limit any payment based on repairs you make
222 or order to protect your property from further damage
223 or to mitigate the loss.

224 5. Your insurance company may not require you to
225 submit proof of loss for your claim for damage caused
226 by a hurricane or other natural disaster unless the
227 insurance company provides you with a written notice
228 of the requirement along with a proof-of-loss form,
229 and allows you at least 60 days after receiving the
230 notice and form to complete and return the form to the
231 insurance company.

232 6. In the event of a catastrophe or emergency,

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233 the Florida Department of Financial Services is
234 authorized to issue emergency licenses to adjusters
235 who meet certain qualifications. Your claims, losses,
236 or damages may be adjusted by such catastrophe or
237 emergency adjusters.

238 7. The Florida Office of Insurance Regulation has
239 issued an emergency order that may contain
240 standardized requirements applying to your insurance
241 company as a result of the hurricane or natural
242 disaster. You may obtain a copy of the order by
243 contacting the office at ...(toll-free telephone
244 number)... or accessing ...(website address)....
245 Section 4. This act shall take effect July 1, 2018.