

By Senator Broxson

1-00417-19

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1                   A bill to be entitled  
2           An act relating to attorney fee awards under insurance  
3           policies and contracts; amending ss. 626.9373 and  
4           627.428, F.S.; revising certain attorney fee  
5           provisions in the Florida Insurance Code to specify  
6           that an insured or beneficiary entitled, under certain  
7           circumstances, to attorney fees under an insurance  
8           policy or contract must be a named insured or named  
9           beneficiary; providing that such right to attorney  
10          fees may not be assigned or extended by agreement,  
11          except to certain persons; making technical changes;  
12          providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Section 626.9373, Florida Statutes, is amended  
17 to read:

18           626.9373 Attorney ~~Attorney's~~ fees.—

19           (1) Upon the rendition of a judgment or decree by any court  
20 of this state against a surplus lines insurer in favor of any  
21 named or omnibus insured or the named beneficiary under a policy  
22 or contract executed by the insurer ~~on or after the effective~~  
23 ~~date of this act~~, the trial court or, if the named insured or  
24 named beneficiary prevails on appeal, the appellate court, shall  
25 adjudge or decree against the insurer in favor of the named  
26 insured or named beneficiary a reasonable sum as fees or  
27 compensation for the named insured's or named beneficiary's  
28 attorney prosecuting the lawsuit for which recovery is awarded.  
29 The right to attorney fees under this section may not be

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30 assigned or extended by contract or other agreement to any  
31 person other than another named insured, named beneficiary, or  
32 omnibus insured.

33 (2) If awarded, attorney ~~attorney's~~ fees or compensation  
34 must shall be included in the judgment or decree rendered in the  
35 case.

36 Section 2. Section 627.428, Florida Statutes, is amended to  
37 read:

38 627.428 Attorney fees ~~Attorney's fee.~~-

39 (1) Upon the rendition of a judgment or decree by any court  
40 ~~of the courts~~ of this state against an insurer and in favor of  
41 any named or omnibus insured or the named beneficiary under a  
42 policy or contract executed by the insurer, the trial court or,  
43 in the event of an appeal in which the named insured or named  
44 beneficiary prevails, the appellate court shall adjudge or  
45 decree against the insurer and in favor of the named insured or  
46 named beneficiary a reasonable sum as fees or compensation for  
47 the named insured's or named beneficiary's attorney prosecuting  
48 the suit in which the recovery is awarded had. The right to  
49 attorney fees under this section may not be assigned or extended  
50 by contract or other agreement to any person other than another  
51 named insured, named beneficiary, or omnibus insured.

52 (2) As to suits based on claims arising under life  
53 insurance policies or annuity contracts, ~~no~~ such attorney fees  
54 may not ~~attorney's fee shall~~ be allowed if such suit was  
55 commenced prior to expiration of 60 days after proof of the  
56 claim was duly filed with the insurer.

57 (3) When so awarded, compensation or fees of the attorney  
58 must shall be included in the judgment or decree rendered in the

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59 case.

60 Section 3. This act shall take effect July 1, 2019.