

1 A bill to be entitled
2 An act relating to insurance assignment agreements;
3 creating s. 627.7152, F.S.; providing definitions;
4 providing requirements and limitations for property
5 insurance assignment agreements; providing a burden of
6 proof; providing that an assignment agreement does not
7 affect managed repair arrangements under a property
8 insurance policy; providing that an acceptance by an
9 assignee of an assignment agreement is a waiver by the
10 assignee and its subcontractors of certain claims
11 against an insured; specifying an insured's payment
12 obligations under an assignment agreement; requiring
13 notice of intent to initiate litigation; specifying
14 requirements for such notice; requiring a written
15 response to the notice of intent to initiate
16 litigation; specifying requirements for such response;
17 providing for an award of reasonable attorney fees for
18 certain claims arising under an assignment agreement;
19 providing for an award of reasonable attorney fees
20 following a voluntary dismissal under certain
21 circumstances; requiring the court to stay proceedings
22 under certain circumstances; directing the Office of
23 Insurance Regulation to require insurers to report
24 specified data; requiring the Financial Services
25 Commission to adopt rules; providing applicability;

26 | creating s. 627.7153, F.S.; defining the term
27 | "assignment agreement"; authorizing insurers to make
28 | available property insurance policies restricting the
29 | assignment of post-loss benefits under certain
30 | conditions; requiring annual notice of coverage
31 | options; requiring a written or electronic waiver
32 | under certain circumstances; requiring the office to
33 | approve a waiver form; providing applicability;
34 | amending s. 627.7288, F.S.; providing definitions;
35 | providing requirements and limitations for assignment
36 | agreements relating to motor vehicle glass repair;
37 | providing a burden of proof; providing that an
38 | assignment agreement does not affect managed repair
39 | arrangements under comprehensive or combined
40 | additional coverage under a motor vehicle insurance
41 | policy; providing that an acceptance by an assignee of
42 | an assignment agreement is a waiver by the assignee
43 | and its subcontractors of certain claims against an
44 | insured; specifying an insured's payment obligations
45 | under an assignment agreement; requiring notice of
46 | intent to initiate litigation; specifying requirements
47 | for such notice; requiring a written response to the
48 | notice of intent to initiate litigation; specifying
49 | requirements for such response; providing for an award
50 | of reasonable attorney fees for certain claims arising

51 under an assignment agreement; providing for an award
52 of reasonable attorney fees following a voluntary
53 dismissal under certain circumstances; requiring the
54 court to stay proceedings under certain circumstances;
55 directing the office to require insurers to report
56 specified data; requiring the commission to adopt
57 rules; providing applicability; creating s. 627.7289,
58 F.S.; defining the term "assignment agreement";
59 authorizing insurers to make available comprehensive
60 or combined additional coverage under a motor vehicle
61 insurance policy restricting the assignment of post-
62 loss benefits under certain conditions; requiring
63 annual notice of coverage options; requiring a written
64 or electronic waiver under certain circumstances;
65 requiring the office to approve a waiver form;
66 providing applicability; amending s. 627.422, F.S.;
67 providing that property insurance policies may not
68 prohibit assignment of post-loss benefits; providing
69 an exception; providing that comprehensive or combined
70 additional coverage under a motor vehicle insurance
71 policy may not prohibit assignment of post-loss
72 benefits; providing an exception; providing
73 severability; providing an effective date.

74
75 Be It Enacted by the Legislature of the State of Florida:

76
77 Section 1. Section 627.7152, Florida Statutes, is created
78 to read:

79 627.7152 Assignment agreements.-

80 (1) As used in this section, the term:

81 (a) "Assignee" means a person who is assigned post-loss
82 benefits through an assignment agreement.

83 (b) "Assignment agreement" means any instrument by which
84 post-loss benefits under a residential property insurance policy
85 or commercial property insurance policy, as that term is defined
86 in s. 627.0625(1), are assigned or transferred, or acquired in
87 any manner, in whole or in part, to or from a person providing
88 services to protect, repair, restore, or replace property or to
89 mitigate against further damage to the property.

90 (c) "Assignor" means a person who assigns post-loss
91 benefits under a residential property insurance policy or
92 commercial property insurance policy to another person through
93 an assignment agreement.

94 (d) "Disputed amount" means the difference between the
95 assignee's presuit settlement demand and the insurer's presuit
96 settlement offer.

97 (e) "Judgment obtained" means damages recovered, if any,
98 but does not include any amount awarded for attorney fees,
99 costs, or interest.

100 (f) "Presuit settlement demand" means the demand made by

101 the assignee in the written notice of intent to initiate
102 litigation as required by paragraph (8) (a).

103 (g) "Presuit settlement offer" means the offer made by the
104 insurer in its written response to the notice of intent to
105 initiate litigation as required by paragraph (8) (b).

106 (2) (a) An assignment agreement must:

107 1. Be in writing and executed by and between the assignor
108 and the assignee.

109 2. Contain a provision that allows the assignor to rescind
110 the assignment agreement without a penalty or fee by submitting
111 a written notice of rescission signed by the assignor to the
112 assignee within 7 days after the execution of the agreement, at
113 least 30 days after the date work on the property is scheduled
114 to commence if the assignee has not substantially performed, or
115 at least 30 days after the execution of the agreement if the
116 agreement does not contain a commencement date and the assignee
117 has not begun substantial work on the property.

118 3. Contain a provision requiring the assignee to provide a
119 copy of the executed assignment agreement to the insurer within
120 3 business days after the date on which the assignment agreement
121 is executed or the date on which work begins, whichever is
122 earlier. Delivery of the copy of the assignment agreement to the
123 insurer may be made:

124 a. By personal service, overnight delivery, or electronic
125 transmission, with evidence of delivery in the form of a receipt

126 or other paper or electronic acknowledgement by the insurer; or
 127 b. To the location designated for receipt of such
 128 agreements as specified in the policy.

129 4. Contain a written, itemized, per-unit cost estimate of
 130 the services to be performed by the assignee. If the estimate of
 131 services includes a claim for water restoration services, the
 132 estimate must also include proof that the assignee or
 133 subcontractor of the assignee possesses a valid certification
 134 from an entity that requires water remediation to be performed
 135 in accordance with the American National Standards Institute-
 136 approved standards.

137 5. Relate only to work to be performed by the assignee for
 138 services to protect, repair, restore, or replace dwellings or
 139 structures or to mitigate against further damage to such
 140 property.

141 6. Contain the following notice in 18-point uppercase and
 142 boldfaced type:

143
 144 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR
 145 INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN
 146 LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS
 147 DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS
 148 AGREEMENT WITHOUT PENALTY WITHIN 7 DAYS AFTER THE DATE THIS
 149 AGREEMENT IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
 150 THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE HAS NOT

151 SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS AFTER THE EXECUTION
152 OF THE AGREEMENT IF THE AGREEMENT DOES NOT CONTAIN A
153 COMMENCEMENT DATE AND THE ASSIGNEE HAS NOT BEGUN SUBSTANTIAL
154 WORK ON THE PROPERTY. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF
155 ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED.
156 THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE
157 DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

158
159 7. Contain a provision requiring the assignee to indemnify
160 and hold harmless the assignor from all liabilities, damages,
161 losses, and costs, including, but not limited to, attorney fees,
162 should the policy subject to the assignment agreement prohibit,
163 in whole or in part, the assignment of benefits.

164 (b) An assignment agreement may not contain:

165 1. A penalty or fee for rescission under subparagraph

166 (a)2.;

167 2. A check or mortgage processing fee;

168 3. A penalty or fee for cancellation of the assignment
169 agreement; or

170 4. An administrative fee.

171 (c) An assignment agreement that does not comply with this
172 subsection is invalid and unenforceable.

173 (3) In a claim arising under an assignment agreement, an
174 assignee has the burden to demonstrate that the insurer is not
175 prejudiced by the assignee's failure to:

- 176 (a) Maintain records of all services provided under the
177 assignment agreement.
- 178 (b) Cooperate with the insurer in the claim investigation.
- 179 (c) Provide the insurer with requested records and
180 documents related to the services provided, and permit the
181 insurer to make copies of such records and documents.
- 182 (d) Deliver a copy of the executed assignment agreement to
183 the insurer within 3 business days after executing the
184 assignment agreement or work has begun, whichever is earlier.
- 185 (4) An assignee:
- 186 (a) Must provide the assignor with accurate and up-to-date
187 revised estimates of the scope of work to be performed as
188 supplemental or additional repairs are required.
- 189 (b) Must perform the work in accordance with accepted
190 industry standards.
- 191 (c) May not seek payment from the assignor exceeding the
192 applicable deductible under the policy unless the assignor has
193 chosen to have additional work performed at the assignor's own
194 expense.
- 195 (d) Must, as a condition precedent to filing suit under
196 the policy, and, if required by the insurer, submit to
197 examinations under oath and recorded statements conducted by the
198 insurer or the insurer's representative that are reasonably
199 necessary, based on the scope of the work and the complexity of
200 the claim, which examinations and recorded statements must be

201 limited to matters related to the services provided, the cost of
202 the services, and the assignment agreement.

203 (e) Must, as a condition precedent to filing suit under
204 the policy, and, if required by the insurer, participate in
205 appraisal or other alternative dispute resolution methods in
206 accordance with the terms of the policy.

207 (5) An assignment agreement and this section do not modify
208 or eliminate any term, condition, or defense relating to any
209 managed repair arrangement provided in the policy.

210 (6) (a) Notwithstanding any other provision of law, and
211 except as provided in paragraph (b), the acceptance by an
212 assignee of an assignment agreement is a waiver by the assignee
213 and its subcontractors of claims against named insureds for
214 payments arising from the assignment agreement. The assignee and
215 its subcontractors may not collect or attempt to collect money
216 from an insured, maintain any action at law against an insured,
217 claim a lien on the real property of an insured, or report an
218 insured to a credit agency for payments arising from the
219 assignment agreement. Such waiver remains in effect after the
220 assignment agreement is rescinded by the assignor or after a
221 determination that the assignment agreement is invalid.

222 (b) An assignor is responsible for the payment of all of
223 the following:

- 224 1. Any deductible amount due under the policy.
225 2. Any betterment ordered and performed that is approved

226 by the assignor.

227 3. Any contracted work performed before the assignment
228 agreement is rescinded by the assignor or before a determination
229 that the assignment agreement is invalid.

230 (7) The assignee shall indemnify and hold harmless the
231 assignor from all liabilities, damages, losses, and costs,
232 including, but not limited to, attorney fees, should the policy
233 subject to the assignment agreement prohibit, in whole or in
234 part, the assignment of benefits.

235 (8)(a) An assignee must provide the insurer and the
236 assignor with a written notice of intent to initiate litigation
237 before filing suit under the policy. Such notice must be served
238 by certified mail, return receipt requested, or electronic
239 delivery at least 10 business days before filing suit, but may
240 not be served before the insurer has made a determination of
241 coverage under s. 627.70131. The notice must specify the damages
242 in dispute, the amount claimed, and a presuit settlement demand.
243 Concurrent with the notice, and as a precondition to filing
244 suit, the assignee must provide the insurer and the assignor a
245 detailed written invoice or estimate of services, including
246 itemized information on equipment, materials, and supplies; the
247 number of labor hours; and, in the case of work performed, proof
248 that the work has been performed in accordance with accepted
249 industry standards. If the invoice or estimate includes a claim
250 for water restoration services, the assignee must provide proof

251 of the certification required by subparagraph (2) (a)4.

252 (b) An insurer must respond in writing to the notice
253 within 10 business days after receiving the notice specified in
254 paragraph (a) by making a presuit settlement offer or requiring
255 the assignee to participate in appraisal or other method of
256 alternative dispute resolution under the policy. An insurer must
257 have a procedure for the prompt investigation, review, and
258 evaluation of the dispute stated in the notice and must
259 investigate each claim contained in the notice in accordance
260 with the Florida Insurance Code.

261 (9) Notwithstanding any other provision of law, in a suit
262 related to an assignment agreement for post-loss claims arising
263 under a residential or commercial property insurance policy,
264 attorney fees and costs may be recovered by an assignee only
265 under s. 57.105 and this subsection.

266 (a) If the difference between the judgment obtained by the
267 assignee and the presuit settlement offer is:

268 1. Less than 25 percent of the disputed amount, the
269 insurer is entitled to an award of reasonable attorney fees.

270 2. At least 25 percent but less than 50 percent of the
271 disputed amount, no party is entitled to an award of attorney
272 fees.

273 3. At least 50 percent of the disputed amount, the
274 assignee is entitled to an award of reasonable attorney fees.

275 (b) If the insurer fails to inspect the property or

276 provide written or oral authorization for repairs within 7
277 calendar days after the first notice of loss, the insurer waives
278 its right to an award of attorney fees under this subsection. If
279 the failure to inspect the property or provide written or oral
280 authorization for repairs is the result of an event for which
281 the Governor had declared a state of emergency pursuant to s.
282 252.36, factors beyond the control of the insurer which
283 reasonably prevented an inspection or written or oral
284 authorization for repairs, or the named insureds' failure or
285 inability to allow an inspection of the property after a request
286 by the insurer, the insurer does not waive its right to an award
287 of attorney fees under this subsection.

288 (c) If an assignee commences an action in any court of
289 this state based upon or including the same claim against the
290 same adverse party that such assignee has previously voluntarily
291 dismissed in a court of this state, the court may order the
292 assignee to pay the attorney fees and costs of the adverse party
293 of the action previously voluntarily dismissed. The court shall
294 stay the proceedings in the subsequent action until the assignee
295 has complied with the order.

296 (10) This section does not apply to:

297 (a) An assignment, transfer, or conveyance granted to a
298 subsequent purchaser of the property with an insurable interest
299 in the property following a loss;

300 (b) A power of attorney under chapter 709 that grants to a

301 management company, family member, guardian, or similarly
302 situated person of an insured the authority to act on behalf of
303 an insured as it relates to a property insurance claim; or

304 (c) Liability coverage under a property insurance policy.

305 (11) The office shall require each insurer to report by
306 January 30, 2022, and each year thereafter data on each
307 residential and commercial property insurance claim paid in the
308 prior calendar year under an assignment agreement. The Financial
309 Services Commission shall adopt by rule a list of the data
310 required, which must include specific data about claims
311 adjustment and settlement timeframes and trends, grouped by
312 whether litigated or not litigated and by loss adjustment
313 expenses.

314 (12) This section applies to an assignment agreement
315 executed on or after July 1, 2019.

316 Section 2. Section 627.7153, Florida Statutes, is created
317 to read:

318 627.7153 Policies restricting assignment of post-loss
319 benefits under a property insurance policy.—

320 (1) As used in this section, the term "assignment
321 agreement" has the same meaning as provided in s. 627.7152.

322 (2) An insurer may make available a policy that restricts
323 in whole or in part an insured's right to execute an assignment
324 agreement only if all of the following conditions are met:

325 (a) The insurer makes available to the insured or

326 potential insured at the same time the same coverage under a
327 policy that does not restrict the right to execute an assignment
328 agreement.

329 (b) Each restricted policy is available at a lower cost
330 than the unrestricted policy.

331 (c) The policy prohibiting assignment in whole is
332 available at a lower cost than any policy prohibiting assignment
333 in part.

334 (d) The restricted policies include on their face the
335 following notice in 18-point uppercase and boldfaced type:

336
337 THIS POLICY DOES NOT ALLOW THE UNRESTRICTED ASSIGNMENT OF POST-
338 LOSS INSURANCE BENEFITS. BY SELECTING THIS POLICY, YOU WAIVE
339 YOUR RIGHT TO FREELY ASSIGN OR TRANSFER THE POST-LOSS PROPERTY
340 INSURANCE BENEFITS AVAILABLE UNDER THIS POLICY TO A THIRD PARTY
341 OR TO OTHERWISE FREELY ENTER INTO AN ASSIGNMENT AGREEMENT AS THE
342 TERM IS DEFINED IN SECTION 627.7152 OF THE FLORIDA STATUTES.

343
344 (3) The insurer shall notify the insured at least annually
345 of the coverage options the insurer makes available under this
346 section. Such notice must be part of and attached to the notice
347 of premium.

348 (4) A named insured must reject a fully assignable policy
349 in writing or electronically. The rejection of a fully
350 assignable policy shall be made on a form approved by the

351 office. The form must state that the policy restricts the
 352 assignment of benefits. The heading of the form shall be in 18-
 353 point uppercase and boldfaced type and state:

354
 355 YOU ARE ELECTING TO PURCHASE AN INSURANCE POLICY THAT RESTRICTS
 356 THE ASSIGNMENT OF BENEFITS UNDER THE POLICY IN WHOLE OR IN PART.
 357 PLEASE READ CAREFULLY.

358
 359 (5) This section applies to a policy issued or renewed on
 360 or after July 1, 2019.

361 Section 3. Section 627.7288, Florida Statutes, is amended
 362 to read:

363 627.7288 Comprehensive coverage; ~~deductible not to apply~~
 364 ~~to~~ motor vehicle glass.-

365 (1) The deductible provisions of any policy of motor
 366 vehicle insurance, delivered or issued in this state by an
 367 authorized insurer, providing comprehensive coverage or combined
 368 additional coverage ~~do shall~~ not apply ~~be applicable~~ to damage
 369 to the windshield of any motor vehicle covered under such
 370 policy.

371 (2) As used in this section, the term:

372 (a) "Assignee" means a person who is assigned post-loss
 373 benefits through an assignment agreement.

374 (b) "Assignment agreement" means any instrument by which
 375 post-loss benefits under comprehensive or combined additional

376 coverage under a motor vehicle insurance policy are assigned,
377 transferred, or acquired in any manner, in whole or in part, to
378 or from a person providing services to repair or replace motor
379 vehicle glass.

380 (c) "Assignor" means a person who assigns post-loss
381 benefits under comprehensive or combined additional coverage
382 under a motor vehicle insurance policy to another person through
383 an assignment agreement.

384 (d) "Disputed amount" means the difference between the
385 assignee's presuit settlement demand and the insurer's presuit
386 settlement offer.

387 (e) "Judgment obtained" means damages recovered, if any,
388 but does not include any amount awarded for attorney fees,
389 costs, or interest.

390 (f) "Presuit settlement demand" means the demand made by
391 the assignee in the written notice of intent to initiate
392 litigation as required by paragraph (9) (a).

393 (g) "Presuit settlement offer" means the offer made by the
394 insurer in its written response to the notice of intent to
395 initiate litigation as required by paragraph (9) (b).

396 (3) (a) An assignment agreement must:

397 1. Be in writing and executed by and between the assignor
398 and the assignee.

399 2. Contain a provision that allows the assignor to rescind
400 the assignment agreement without a penalty or fee by signing a

401 notice of rescission within 2 calendar days after the execution
402 date of the assignment agreement and by notifying the assignee
403 of the rescission. The assignor may rescind the assignment
404 agreement for any reason during the 2-day period. However, the
405 assignor must pay for contracted work performed before
406 rescission.

407 3. Contain a provision requiring the assignee to provide a
408 copy of the executed assignment agreement to the insurer within
409 1 calendar day after the date on which the assignment agreement
410 is executed or the date on which work begins, whichever is
411 earlier. Delivery of the copy of the assignment agreement to the
412 insurer may be made:

413 a. By personal service, overnight delivery, or electronic
414 transmission, with evidence of delivery in the form of a receipt
415 or other paper or electronic acknowledgement by the insurer; or

416 b. To the location designated for receipt of such
417 agreements as specified in the policy.

418 4. Contain a written, itemized, per-unit cost estimate of
419 the services to be performed by the assignee.

420 5. Relate only to work to be performed by the assignee for
421 services to repair or replace motor vehicle glass.

422 6. Contain the following notice in 18-point uppercase and
423 boldfaced type:

424
425 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR

426 INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN
 427 LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS
 428 DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS
 429 AGREEMENT WITHOUT PENALTY WITHIN 2 CALENDAR DAYS AFTER THE DATE
 430 THIS AGREEMENT IS EXECUTED. HOWEVER, YOU ARE OBLIGATED FOR
 431 PAYMENT OF ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS
 432 RESCINDED. THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO
 433 PERFORM THE DUTIES REQUIRED UNDER YOUR MOTOR VEHICLE INSURANCE
 434 POLICY.

435
 436 7. Contain a provision requiring the assignee to indemnify
 437 and hold harmless the assignor from all liabilities, damages,
 438 losses, and costs, including, but not limited to, attorney fees,
 439 should the policy subject to the assignment agreement prohibit,
 440 in whole or in part, the assignment of benefits.

441 (b) An assignment agreement may not contain:

442 1. A penalty or fee for rescission under subparagraph
 443 (a)2.;

444 2. A check or processing fee;

445 3. A penalty or fee for cancellation of the assignment
 446 agreement; or

447 4. An administrative fee.

448 (c) An assignment agreement that does not comply with this
 449 subsection is invalid and unenforceable.

450 (4) In a claim arising under an assignment agreement, an

451 assignee has the burden to demonstrate that the insurer is not
452 prejudiced by the assignee's failure to:

453 (a) Maintain records of all services provided under the
454 assignment agreement.

455 (b) Cooperate with the insurer in the claim investigation.

456 (c) Provide the insurer with requested records and
457 documents related to the services provided, and permit the
458 insurer to make copies of such records and documents.

459 (d) Deliver a copy of the executed assignment agreement to
460 the insurer within 1 calendar day after executing the assignment
461 agreement or work has begun, whichever is earlier.

462 (5) An assignee:

463 (a) Must provide the assignor with accurate and up-to-date
464 revised estimates of the scope of work to be performed as
465 supplemental or additional repairs are required.

466 (b) Must perform the work in accordance with accepted
467 industry standards.

468 (c) May not seek payment from the assignor exceeding the
469 applicable deductible under the policy unless the assignor has
470 chosen to have additional work performed at the assignor's own
471 expense.

472 (d) Must, as a condition precedent to filing suit under
473 the policy, and, if required by the insurer, submit to
474 examinations under oath and recorded statements conducted by the
475 insurer or the insurer's representative that are reasonably

476 necessary, based on the scope of the work and the complexity of
477 the claim, which examinations and recorded statements must be
478 limited to matters related to the services provided, the cost of
479 the services, and the assignment agreement.

480 (e) Must, as a condition precedent to filing suit under
481 the policy, and, if required by the insurer, participate in
482 appraisal or other alternative dispute resolution methods in
483 accordance with the terms of the policy.

484 (6) An assignment agreement and this section do not modify
485 or eliminate any term, condition, or defense relating to any
486 managed repair arrangement provided in the policy.

487 (7) (a) Notwithstanding any other provision of law, and
488 except as provided in paragraph (b), the acceptance by an
489 assignee of an assignment agreement is a waiver by the assignee
490 and its subcontractors of claims against named insureds for
491 payments arising from the assignment agreement. The assignee and
492 its subcontractors may not collect or attempt to collect money
493 from an insured, maintain any action at law against an insured,
494 claim a lien on the motor vehicle of an insured, or report an
495 insured to a credit agency for payments arising from the
496 assignment agreement. Such waiver remains in effect after the
497 assignment agreement is rescinded by the assignor or after a
498 determination that the assignment agreement is invalid.

499 (b) An assignor is responsible for the payment of all of
500 the following:

501 1. Any deductible amount due under the policy.

502 2. Any betterment ordered and performed that is approved
503 by the assignor.

504 3. Any contracted work performed before the assignment
505 agreement is rescinded by the assignor or before a determination
506 that the assignment agreement is invalid.

507 (8) The assignee shall indemnify and hold harmless the
508 assignor from all liabilities, damages, losses, and costs,
509 including, but not limited to, attorney fees, should the policy
510 subject to the assignment agreement prohibit, in whole or in
511 part, the assignment of benefits.

512 (9) (a) An assignee must provide the insurer and the
513 assignor with a written notice of intent to initiate litigation
514 before filing suit under the policy. Such notice must be served
515 by certified mail, return receipt requested, or electronic
516 delivery at least 10 business days before filing suit. The
517 notice must specify the damages in dispute, the amount claimed,
518 and a presuit settlement demand. Concurrent with the notice, and
519 as a precondition to filing suit, the assignee must provide the
520 insurer and the assignor a detailed written invoice of services,
521 including itemized information on equipment, materials, and
522 supplies; the number of labor hours; and, in the case of work
523 performed, proof that the work has been performed in accordance
524 with accepted industry standards.

525 (b) An insurer must respond in writing to the notice

526 within 10 business days after receiving the notice specified in
527 paragraph (a) by making a presuit settlement offer or requiring
528 the assignee to participate in appraisal or other method of
529 alternative dispute resolution under the policy. An insurer must
530 have a procedure for the prompt investigation, review, and
531 evaluation of the dispute stated in the notice and must
532 investigate each claim contained in the notice in accordance
533 with the Florida Insurance Code.

534 (10) Notwithstanding any other provision of law, in a suit
535 related to an assignment agreement for post-loss motor vehicle
536 glass claims arising under comprehensive or combined additional
537 coverage of a motor vehicle insurance policy, attorney fees and
538 costs may be recovered by an assignee only under s. 57.105 and
539 this subsection.

540 (a) If the difference between the judgment obtained by the
541 assignee and the presuit settlement offer is:

542 1. Less than 25 percent of the disputed amount, the
543 insurer is entitled to an award of reasonable attorney fees.

544 2. At least 25 percent but less than 50 percent of the
545 disputed amount, no party is entitled to an award of attorney
546 fees.

547 3. At least 50 percent of the disputed amount, the
548 assignee is entitled to an award of reasonable attorney fees.

549 (b) If the insurer fails to inspect the motor vehicle or
550 provide written or oral authorization for the glass repairs

551 within 1 calendar day after the first notice of loss, the
552 insurer waives its right to an award of attorney fees under this
553 subsection. If the failure to inspect the motor vehicle or
554 provide written or oral authorization for repairs is the result
555 of an event for which the Governor had declared a state of
556 emergency pursuant to s. 252.36, factors beyond the control of
557 the insurer which reasonably prevented an inspection or written
558 or oral authorization for repairs, or the named insureds'
559 failure or inability to allow an inspection of the motor vehicle
560 after a request by the insurer, the insurer does not waive its
561 right to an award of attorney fees under this subsection.

562 (c) If an assignee commences an action in any court of
563 this state based upon or including the same claim against the
564 same adverse party that such assignee has previously voluntarily
565 dismissed in a court of this state, the court may order the
566 assignee to pay the attorney fees and costs of the adverse party
567 of the action previously voluntarily dismissed. The court shall
568 stay the proceedings in the subsequent action until the assignee
569 has complied with the order.

570 (11) This section does not apply to:

571 (a) An assignment, transfer, or conveyance granted to a
572 subsequent purchaser of the motor vehicle with an insurable
573 interest in the motor vehicle following a loss;

574 (b) A power of attorney under chapter 709 that grants to a
575 management company, family member, guardian, or similarly

576 situated person of an insured the authority to act on behalf of
 577 an insured as it relates to a motor vehicle insurance claim; or

578 (c) Liability coverage under a motor vehicle insurance
 579 policy.

580 (12) The office shall require each insurer to report by
 581 January 30, 2022, and each year thereafter data on each motor
 582 vehicle glass insurance claim paid in the prior calendar year
 583 under an assignment agreement. The Financial Services Commission
 584 shall adopt by rule a list of the data required, which must
 585 include specific data about claims adjustment and settlement
 586 timeframes and trends, grouped by whether litigated or not
 587 litigated and by loss adjustment expenses.

588 (13) This section applies to an assignment agreement
 589 executed on or after July 1, 2019.

590 Section 4. Section 627.7289, Florida Statutes, is created
 591 to read:

592 627.7289 Policies restricting assignment of post-loss
 593 benefits under comprehensive or combined additional coverage
 594 under a motor vehicle insurance policy.—

595 (1) As used in this section, the term "assignment
 596 agreement" has the same meaning as provided in s. 627.7288.

597 (2) An insurer may make available a policy that restricts
 598 in whole or in part an insured's right to execute an assignment
 599 agreement only if all of the following conditions are met:

600 (a) The insurer makes available to the insured or

601 potential insured at the same time the same coverage under a
602 policy that does not restrict the right to execute an assignment
603 agreement.

604 (b) Each restricted policy is available at a lower cost
605 than the unrestricted policy.

606 (c) The policy prohibiting assignment in whole is
607 available at a lower cost than any policy prohibiting assignment
608 in part.

609 (d) The restricted policies include on their face the
610 following notice in 18-point uppercase and boldfaced type:

611
612 THIS POLICY DOES NOT ALLOW THE UNRESTRICTED ASSIGNMENT OF POST-
613 LOSS INSURANCE BENEFITS. BY SELECTING THIS POLICY, YOU WAIVE
614 YOUR RIGHT TO FREELY ASSIGN OR TRANSFER THE POST-LOSS MOTOR
615 VEHICLE GLASS INSURANCE BENEFITS AVAILABLE UNDER THIS POLICY TO
616 A THIRD PARTY OR TO OTHERWISE FREELY ENTER INTO AN ASSIGNMENT
617 AGREEMENT AS THE TERM IS DEFINED IN SECTION 627.7288 OF THE
618 FLORIDA STATUTES.

619
620 (3) The insurer shall notify the insured at least annually
621 of the coverage options the insurer makes available under this
622 section. Such notice must be part of and attached to the notice
623 of premium.

624 (4) A named insured must reject a fully assignable policy
625 in writing or electronically. The rejection of a fully

626 assignable policy shall be made on a form approved by the
627 office. The form must state that the policy restricts the
628 assignment of benefits. The heading of the form shall be in 18-
629 point uppercase and boldfaced type and state:

630

631 YOU ARE ELECTING TO PURCHASE AN INSURANCE POLICY THAT RESTRICTS
632 THE ASSIGNMENT OF BENEFITS UNDER THE POLICY IN WHOLE OR IN PART.
633 PLEASE READ CAREFULLY.

634

635 (5) This section applies to a policy issued or renewed on
636 or after July 1, 2019.

637 Section 5. Section 627.422, Florida Statutes, is amended
638 to read:

639 627.422 Assignment of policies or post-loss benefits.—A
640 policy may be assignable, or not assignable, as provided by its
641 terms.

642 (1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its
643 terms relating to assignability, any life or health insurance
644 policy under the terms of which the beneficiary may be changed
645 upon the sole request of the policyowner may be assigned either
646 by pledge or transfer of title, by an assignment executed by the
647 policyowner alone and delivered to the insurer, whether or not
648 the pledgee or assignee is the insurer. Any such assignment
649 shall entitle the insurer to deal with the assignee as the owner
650 or pledgee of the policy in accordance with the terms of the

651 assignment, until the insurer has received at its home office
652 written notice of termination of the assignment or pledge or
653 written notice by or on behalf of some other person claiming
654 some interest in the policy in conflict with the assignment.

655 (2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE
656 POLICIES.—A residential or commercial property insurance policy
657 may not prohibit the assignment of post-loss benefits unless it
658 complies with s. 627.7153.

659 (3) POST-LOSS BENEFITS UNDER CERTAIN MOTOR VEHICLE
660 INSURANCE POLICIES.—Comprehensive or combined additional
661 coverage under a motor vehicle insurance policy may not prohibit
662 the assignment of post-loss benefits to a person providing
663 services to repair or replace motor vehicle glass unless it
664 complies with s. 627.7289.

665 Section 6. If any provision of this act or its application
666 to any person or circumstance is held invalid, the invalidity
667 does not affect the remaining provisions or applications of the
668 act which can be given effect without the invalid provision or
669 application, and to this end the provisions of this act are
670 severable.

671 Section 7. This act shall take effect July 1, 2019.