

By Senator Rader

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1 A bill to be entitled
2 An act relating to the assignment of property
3 insurance benefits; creating s. 627.7152, F.S.;
4 defining the term "assignment agreement"; specifying
5 requirements for an assignee; requiring an assignee to
6 meet certain requirements as a condition precedent to
7 filing suit under a policy; providing that acceptance
8 of an assignment agreement constitutes a waiver of
9 certain claims; providing construction and
10 applicability; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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

16 627.7152 Assignment of property insurance post-loss
17 benefits.-

18 (1) As used in this section, the term "assignment
19 agreement" means any instrument by which post-loss property
20 insurance benefits for services to protect, repair, restore, or
21 replace property, or to mitigate against further damage to
22 property, are assigned, transferred, or conveyed, regardless of
23 how named or styled.

24 (2) As to claims arising under an assignment agreement, the
25 failure to comply with any provision of this subsection creates
26 a presumption that the insurer is prejudiced by such failure to
27 comply and shifts the burden in any proceeding or suit to the
28 party seeking benefits, rights, or proceeds from the insurer to
29 demonstrate that the insurer was not prejudiced. The assignee or

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30 transferee must do all of the following:

31 (a) Maintain records of all services provided under the
32 assignment agreement;

33 (b) Cooperate with the insurer in the investigation of a
34 claim;

35 (c) Provide the insurer with any and all records and
36 documents requested by the insurer related to services provided
37 within 7 business days of the assignee's receipt of a written
38 request and permit the insurer to make copies of such records or
39 documents as may be reasonably necessary;

40 (d) Deliver a copy of the executed assignment agreement to
41 the insurer no later than 3 business days after the assignment
42 agreement is executed by all named insureds; and

43 (e) Concurrently with any request for payment of benefits
44 under the insurance policy, provide the insurer with a written,
45 itemized, per-unit cost statement of services actually performed
46 pursuant to the assignment agreement.

47 (3) As to claims arising under an assignment agreement, an
48 assignee must, as a condition precedent to filing a suit under
49 the policy:

50 (a) If required by the insurer, submit to examinations
51 under oath and recorded statements conducted by the insurer or
52 the insurer's representative which are limited to matters
53 related to the services provided, the costs of services, and the
54 assignment or transfer; and

55 (b) Participate in an appraisal or other alternative
56 dispute resolution method in accordance with the terms of the
57 policy.

58 (4) An activity in compliance with subsections (2) and (3)

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59 does not constitute practice as a public adjuster pursuant to
60 part VI of chapter 626.

61 (5) Notwithstanding any other law, the acceptance by a
62 person of any assignment agreement constitutes a waiver by the
63 assignee, and any subcontractor of the assignee or transferee,
64 of any and all claims against all named insureds for payment
65 arising from the specified loss, except that all named insureds
66 remain responsible for the payment of any deductible amount
67 provided for by the terms of the insurance policy and for the
68 cost of any betterment ordered by all named insureds. This
69 waiver remains in effect notwithstanding any subsequent
70 determination that the assignment agreement is invalid.

71 (6) This section applies to assignment agreements that are
72 executed after July 1, 2019.

73 Section 2. This act shall take effect July 1, 2019.