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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Gruters) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 303 - 691

and insert:

impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(21) A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter into a contract with an insured or a third-party claimant



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11 pursuant to paragraph (10) (a) may not charge an insured or a  
12 third-party claimant or receive payment by any other source for  
13 any type of service related to the insured or third-party  
14 claimant's claim.

15 Section 11. Effective January 1, 2022, subsection (3) of  
16 section 626.916, Florida Statutes, is amended, and paragraph (f)  
17 is added to subsection (1) of that section, to read:

18 626.916 Eligibility for export.—

19 (1) No insurance coverage shall be eligible for export  
20 unless it meets all of the following conditions:

21 (f) The insured has signed or otherwise provided documented  
22 acknowledgment of a disclosure in substantially the following  
23 form: "You are agreeing to place coverage in the surplus lines  
24 market. Coverage may be available in the admitted market.  
25 Persons insured by surplus lines carriers are not protected  
26 under the Florida Insurance Guaranty Act with respect to any  
27 right of recovery for the obligation of an insolvent unlicensed  
28 insurer."

29 (3) (a) Subsection (1) does not apply to wet marine and  
30 transportation or aviation risks that ~~which~~ are subject to s.  
31 626.917.

32 (b) Paragraphs (1) (a)-(d) do not apply to classes of  
33 insurance which are subject to s. 627.062(3) (d)1. These classes  
34 may be exportable under the following conditions:

35 1. The insurance must be placed only by or through a  
36 surplus lines agent licensed in this state;

37 2. The insurer must be made eligible under s. 626.918; and

38 3. The insured has complied with paragraph (1) (f) ~~must sign~~  
39 ~~a disclosure that substantially provides the following: "You are~~



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40 ~~agreeing to place coverage in the surplus lines market. Superior~~  
41 ~~coverage may be available in the admitted market and at a lesser~~  
42 ~~cost. Persons insured by surplus lines carriers are not~~  
43 ~~protected under the Florida Insurance Guaranty Act with respect~~  
44 ~~to any right of recovery for the obligation of an insolvent~~  
45 ~~unlicensed insurer.” If the disclosure notice is signed by the~~  
46 insured, the insured is presumed to have been informed and to  
47 know that other coverage may be available, and, with respect to  
48 the diligent-effort requirement under subsection (1), there is  
49 no liability on the part of, and no cause of action arises  
50 against, the retail agent presenting the form.

51 Section 12. Paragraph (z) of subsection (1) of section  
52 626.9541, Florida Statutes, is amended to read:

53 626.9541 Unfair methods of competition and unfair or  
54 deceptive acts or practices defined.—

55 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
56 ACTS.—The following are defined as unfair methods of competition  
57 and unfair or deceptive acts or practices:

58 (z) *Sliding*.—Sliding is the act or practice of any of the  
59 following:

60 1. Representing to the applicant that a specific ancillary  
61 coverage or product is required by law in conjunction with the  
62 purchase of insurance when such coverage or product is not  
63 required.†

64 2. Representing to the applicant that a specific ancillary  
65 coverage or product is included in the policy applied for  
66 without an additional charge when such charge is required.† ~~or~~

67 3. Charging an applicant for a specific ancillary coverage  
68 or product, in addition to the cost of the insurance coverage



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69 applied for, without the informed consent of the applicant.

70 4. Initiating, effectuating, binding, or otherwise issuing  
71 a policy of insurance without the prior informed consent of the  
72 owner of the property to be insured.

73 5. Mailing, transmitting, or otherwise submitting by any  
74 means an invoice for premium payment to a mortgagee or escrow  
75 agent, for the purpose of effectuating an insurance policy,  
76 without the prior informed consent of the owner of the property  
77 to be insured. However, this subparagraph does not apply in  
78 cases in which the mortgagee or escrow agent is renewing  
79 insurance or issuing collateral protection insurance, as defined  
80 in s. 624.6085, pursuant to the mortgage or other pertinent loan  
81 documents or communications regarding the property.

82 Section 13. Effective January 1, 2022, subsection (3) of  
83 section 626.9741, Florida Statutes, is amended to read:

84 626.9741 Use of credit reports and credit scores by  
85 insurers.-

86 (3) An insurer must inform an applicant or insured, in the  
87 same medium as the application is taken, that a credit report or  
88 score is being requested for underwriting or rating purposes.  
89 The notification to the consumer must include the following  
90 language: "The Department of Financial Services offers free  
91 financial literacy programs to assist you with insurance-related  
92 questions, including how credit works and how credit scores are  
93 calculated. To learn more, visit [www.MyFloridaCFO.com](http://www.MyFloridaCFO.com)." An  
94 insurer that makes an adverse decision based, in whole or in  
95 part, upon a credit report must provide at no charge, a copy of  
96 the credit report to the applicant or insured or provide the  
97 applicant or insured with the name, address, and telephone



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98 number of the consumer reporting agency from which the insured  
99 or applicant may obtain the credit report. The insurer must  
100 provide notification to the consumer explaining the reasons for  
101 the adverse decision. The reasons must be provided in  
102 sufficiently clear and specific language so that a person can  
103 identify the basis for the insurer's adverse decision. Such  
104 notification shall include a description of the four primary  
105 reasons, or such fewer number as existed, which were the primary  
106 influences of the adverse decision. The use of generalized terms  
107 such as "poor credit history," "poor credit rating," or "poor  
108 insurance score" does not meet the explanation requirements of  
109 this subsection. A credit score may not be used in underwriting  
110 or rating insurance unless the scoring process produces  
111 information in sufficient detail to permit compliance with the  
112 requirements of this subsection. It shall not be deemed an  
113 adverse decision if, due to the insured's credit report or  
114 credit score, the insured continues to receive a less favorable  
115 rate or placement in a less favorable tier or company at the  
116 time of renewal except for renewals or reunderwriting required  
117 by this section.

118 Section 14. Subsection (5) of section 626.9953, Florida  
119 Statutes, is amended to read:

120 626.9953 Qualifications for registration; application  
121 required.—

122 (5) An applicant must submit a set of his or her  
123 fingerprints to the department and pay the processing fee  
124 established under s. 624.501(23) ~~s. 624.501(24)~~. The department  
125 shall submit the applicant's fingerprints to the Department of  
126 Law Enforcement for processing state criminal history records



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127 checks and local criminal records checks through local law  
128 enforcement agencies and for forwarding to the Federal Bureau of  
129 Investigation for national criminal history records checks. The  
130 fingerprints shall be taken by a law enforcement agency, a  
131 designated examination center, or another department-approved  
132 entity. The department may not approve an application for  
133 registration as a navigator if fingerprints have not been  
134 submitted.

135 Section 15. Subsection (1) of section 626.9957, Florida  
136 Statutes, is amended to read:

137 626.9957 Conduct prohibited; denial, revocation, or  
138 suspension of registration.—

139 (1) As provided in s. 626.112, only a person licensed as an  
140 insurance agent or customer representative may engage in the  
141 solicitation of insurance. A person who engages in the  
142 solicitation of insurance as described in s. 626.112(1) without  
143 such license is subject to the penalties provided under s.  
144 626.112(10) ~~s. 626.112(9)~~.

145 Section 16. Subsection (10) of section 627.062, Florida  
146 Statutes, is amended to read:

147 627.062 Rate standards.—

148 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~  
149 ~~627.70131(5)~~ may not be included in the insurer's rate base and  
150 may not be used to justify a rate or rate change.

151 Section 17. Section 627.502, Florida Statutes, is amended  
152 to read:

153 627.502 "Industrial life insurance" defined; reporting;  
154 prohibition on new policies after a certain date.—

155 (1) For the purposes of this code, "industrial life



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156 insurance" is that form of life insurance written under policies  
157 under which premiums are payable monthly or more often, bearing  
158 the words "industrial policy" or "weekly premium policy" or  
159 words of similar import imprinted upon the policies as part of  
160 the descriptive matter, and issued by an insurer that ~~which~~, as  
161 to such industrial life insurance, is operating under a system  
162 of collecting a debit by its agent.

163 (2) Every life insurer servicing existing ~~transacting~~  
164 industrial life insurance shall report to the office all annual  
165 statement data regarding the exhibit of life insurance,  
166 including relevant information for industrial life insurance.

167 (3) Beginning July 1, 2021, a life insurer may not write a  
168 new policy of industrial life insurance.

169 Section 18. Effective January 1, 2022, section 627.70131,  
170 Florida Statutes, is amended to read:

171 627.70131 Insurer's duty to acknowledge communications  
172 regarding claims; investigation.-

173 (1) (a) Upon an insurer's receiving a communication with  
174 respect to a claim, the insurer shall, within 14 calendar days,  
175 review and acknowledge receipt of such communication unless  
176 payment is made within that period of time or unless the failure  
177 to acknowledge is caused by factors beyond the control of the  
178 insurer which reasonably prevent such acknowledgment. If the  
179 acknowledgment is not in writing, a notification indicating  
180 acknowledgment shall be made in the insurer's claim file and  
181 dated. A communication made to or by a representative ~~an agent~~  
182 of an insurer with respect to a claim shall constitute  
183 communication to or by the insurer.

184 (b) As used in this subsection, the term "representative"



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185 ~~"agent"~~ means any person to whom an insurer has granted  
186 authority or responsibility to receive or make such  
187 communications with respect to claims on behalf of the insurer.

188 (c) This subsection does ~~shall~~ not apply to claimants  
189 represented by counsel beyond those communications necessary to  
190 provide forms and instructions.

191 (2) Such acknowledgment must ~~shall~~ be responsive to the  
192 communication. If the communication constitutes a notification  
193 of a claim, unless the acknowledgment reasonably advises the  
194 claimant that the claim appears not to be covered by the  
195 insurer, the acknowledgment must ~~shall~~ provide necessary claim  
196 forms, and instructions, including an appropriate telephone  
197 number.

198 (3) (a) Unless otherwise provided by the policy of insurance  
199 or by law, within 14 ~~10 working~~ days after an insurer receives  
200 proof of loss statements, the insurer shall begin such  
201 investigation as is reasonably necessary unless the failure to  
202 begin such investigation is caused by factors beyond the control  
203 of the insurer which reasonably prevent the commencement of such  
204 investigation.

205 (b) If such investigation involves a physical inspection of  
206 the property, the licensed adjuster assigned by the insurer must  
207 provide the policyholder with a printed or electronic document  
208 containing his or her name and state adjuster license number.

209 (c) Any subsequent communication with the policyholder  
210 regarding the claim must also include the name and license  
211 number of the adjuster communicating about the claim.

212 Communication of the adjuster's name and license number may be  
213 included with other information provided to the policyholder.





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214           (4) An insurer shall maintain a record or log of each  
215 adjuster who communicates with the policyholder as provided in  
216 paragraphs (3) (b) and (c) and provide a list of such adjusters  
217 to the insured, office, or department upon request.

218           (5) For purposes of this section, the term "insurer" means  
219 any residential property insurer.

220           (6) (a) When providing a preliminary or partial estimate of  
221 damage regarding a claim, an insurer shall include with the  
222 estimate the following statement printed in at least 12-point  
223 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT  
224 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND  
225 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU  
226 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING  
227 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

228           (b) When providing a payment on a claim which is not the  
229 full and final payment for the claim, an insurer shall include  
230 with the payment the following statement printed in at least 12-  
231 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR  
232 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL  
233 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL  
234 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT  
235 US.

236           (7) (a) ~~(5) (a)~~ Within 90 days after an insurer receives  
237 notice of an initial, reopened, or supplemental property  
238 insurance claim from a policyholder, the insurer shall pay or  
239 deny such claim or a portion of the claim unless the failure to  
240 pay is caused by factors beyond the control of the insurer which  
241 reasonably prevent such payment. Any payment of an initial or  
242 supplemental claim or portion of such claim made 90 days after



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243 the insurer receives notice of the claim, or made more than 15  
244 days after there are no longer factors beyond the control of the  
245 insurer which reasonably prevented such payment, whichever is  
246 later, bears interest at the rate set forth in s. 55.03.  
247 Interest begins to accrue from the date the insurer receives  
248 notice of the claim. The provisions of this subsection may not  
249 be waived, voided, or nullified by the terms of the insurance  
250 policy. If there is a right to prejudgment interest, the insured  
251 shall select whether to receive prejudgment interest or interest  
252 under this subsection. Interest is payable when the claim or  
253 portion of the claim is paid. Failure to comply with this  
254 subsection constitutes a violation of this code. However,  
255 failure to comply with this subsection does not form the sole  
256 basis for a private cause of action.

257 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of  
258 this subsection, the term "claim" means any of the following:

259 1. A claim under an insurance policy providing residential  
260 coverage as defined in s. 627.4025(1);

261 2. A claim for structural or contents coverage under a  
262 commercial property insurance policy if the insured structure is  
263 10,000 square feet or less; or

264 3. A claim for contents coverage under a commercial tenant  
265 policy if the insured premises is 10,000 square feet or less.

266 (c) This subsection does ~~shall~~ not apply to claims under an  
267 insurance policy covering nonresidential commercial structures  
268 or contents in more than one state.

269 (8) This section also applies to surplus lines insurers and  
270 surplus lines insurance authorized under ss. 626.913-626.937  
271 providing residential coverage.



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272 Section 19. Effective January 1, 2022, section 627.7142,  
273 Florida Statutes, is amended to read:

274 627.7142 Homeowner Claims Bill of Rights.—An insurer  
275 issuing a personal lines residential property insurance policy  
276 in this state must provide a Homeowner Claims Bill of Rights to  
277 a policyholder within 14 days after receiving an initial  
278 communication with respect to a claim, ~~unless the claim follows~~  
279 ~~an event that is the subject of a declaration of a state of~~  
280 ~~emergency by the Governor.~~ The purpose of the bill of rights is  
281 to summarize, in simple, nontechnical terms, existing Florida  
282 law regarding the rights of a personal lines residential  
283 property insurance policyholder who files a claim of loss. The  
284 Homeowner Claims Bill of Rights is specific to the claims  
285 process and does not represent all of a policyholder's rights  
286 under Florida law regarding the insurance policy. The Homeowner  
287 Claims Bill of Rights does not create a civil cause of action by  
288 any individual policyholder or class of policyholders against an  
289 insurer or insurers. The failure of an insurer to properly  
290 deliver the Homeowner Claims Bill of Rights is subject to  
291 administrative enforcement by the office but is not admissible  
292 as evidence in a civil action against an insurer. The Homeowner  
293 Claims Bill of Rights does not enlarge, modify, or contravene  
294 statutory requirements, including, but not limited to, ss.  
295 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does  
296 not prohibit an insurer from exercising its right to repair  
297 damaged property in compliance with the terms of an applicable  
298 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner  
299 Claims Bill of Rights must state:

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HOMEOWNER CLAIMS

BILL OF RIGHTS

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

YOU HAVE THE RIGHT TO:

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

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

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



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claim.

4. Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 days after your claim is filed. The interest, if applicable, must be paid when your claim or the undisputed portion of your claim is paid.

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

~~6.5.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

~~7.6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at...(toll-free phone number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at...(website address)....

YOU ARE ADVISED TO:



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- 359           1. File all claims directly with your insurance  
360           company.
- 361           2. Contact your insurance company before entering  
362 into any contract for repairs to confirm any managed  
363 repair policy provisions or optional preferred  
364 vendors.
- 365           ~~3.2.~~ Make and document emergency repairs that are  
366 necessary to prevent further damage. Keep the damaged  
367 property, if feasible, keep all receipts, and take  
368 photographs or video of damage before and after any  
369 repairs to provide to your insurer.
- 370           ~~4.3.~~ Carefully read any contract that requires  
371 you to pay out-of-pocket expenses or a fee that is  
372 based on a percentage of the insurance proceeds that  
373 you will receive for repairing or replacing your  
374 property.
- 375           ~~5.4.~~ Confirm that the contractor you choose is  
376 licensed to do business in Florida. You can verify a  
377 contractor's license and check to see if there are any  
378 complaints against him or her by calling the Florida  
379 Department of Business and Professional Regulation.  
380 You should also ask the contractor for references from  
381 previous work.
- 382           ~~6.5.~~ Require all contractors to provide proof of  
383 insurance before beginning repairs.
- 384           ~~7.6.~~ Take precautions if the damage requires you  
385 to leave your home, including securing your property  
386 and turning off your gas, water, and electricity, and  
387 contacting your insurance company and provide a phone



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388           number where you can be reached.

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390 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

391 And the directory clause is amended as follows:

392           Delete lines 231 - 232

393 and insert:

394 section 626.854, Florida Statutes, are amended, and subsections  
395 (20) and (21) are added to that section, to read:

396

397 ===== T I T L E   A M E N D M E N T =====

398 And the title is amended as follows:

399           Delete lines 50 - 79

400 and insert:

401           licensure; prohibiting specified persons from charging  
402           insureds or third-party claimants or receiving  
403           payments under certain circumstances; amending s.  
404           626.916, F.S.; revising disclosure requirements for  
405           certain classes of insurance before being eligible for  
406           export under the Surplus Lines Law; amending s.  
407           626.9541, F.S.; adding certain acts or practices to  
408           the definition of sliding; amending s. 626.9741, F.S.;  
409           requiring an insurer to include certain additional  
410           information when providing an applicant or insured  
411           with certain credit report or score information;  
412           amending ss. 626.9953, 626.9957, and 627.062, F.S.;  
413           conforming cross-references; amending s. 627.502,  
414           F.S.; prohibiting life insurers from writing new  
415           policies of industrial life insurance beginning on a  
416           certain date; making technical changes; amending s.



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417 627.70131, F.S.; providing that a communication made  
418 to or by an insurer's representative, rather than to  
419 or by an insurer's agent, constitutes communication to  
420 or by the insurer; defining the term "representative",  
421 rather than "agent"; revising the timeframe for  
422 insurers to begin certain investigations; requiring an  
423 insurer-assigned licensed adjuster to provide the  
424 policyholder with certain information in certain  
425 investigations; requiring insurers to maintain certain  
426 records and provide certain lists upon request;  
427 requiring insurers to include specified notices when  
428 providing preliminary or partial damage estimates or  
429 claim payments; providing applicability; conforming  
430 provisions to changes made by the act;