

By the Committees on Judiciary; and Banking and Insurance; and
Senators Boyd and Brandes

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1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 626.112, F.S.; providing a criminal penalty for aiding
4 or abetting unlicensed activity; creating s. 626.5813,
5 F.S.; defining the term "claims adjusting";
6 prohibiting a person from providing claims adjusting
7 services unless the person meets specified
8 requirements; authorizing the department to take
9 administrative actions and impose fines against
10 persons performing specified activities without
11 licensure; amending s. 626.9373, F.S.; providing that,
12 for certain attorney fees awarded for claims arising
13 under surplus lines property insurance policies, a
14 strong presumption is created that a lodestar fee is
15 sufficient and reasonable; providing that such
16 presumption may be rebutted only under certain
17 circumstances; defining terms; providing for an award
18 of attorney fees for certain claims under specified
19 circumstances; amending s. 627.428, F.S.; providing
20 that, for certain attorney fees awarded for claims
21 arising under property insurance policies, a strong
22 presumption is created that a lodestar fee is
23 sufficient and reasonable; providing that such
24 presumption may be rebutted only under certain
25 circumstances; amending s. 627.7011, F.S.; providing
26 that certain provisions relating to homeowners'
27 policies, offers of replacement cost coverage, and
28 offers of law and ordinance coverage do not prohibit
29 insurers from providing specified property insurance

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30 policies by including roof surface reimbursement
31 schedules; providing requirements for roof surface
32 reimbursement schedules; prohibiting application of a
33 roof surface reimbursement schedule under certain
34 circumstances; providing that certain provisions
35 relating to homeowners' policies, offers of
36 replacement cost coverage, and offers of law and
37 ordinance coverage do not prohibit insurers from
38 providing specified property insurance policies by
39 offering roof reimbursement on the basis of
40 replacement costs; providing that certain provisions
41 relating to homeowners' policies, offers of
42 replacement cost coverage, and offers of law and
43 ordinance coverage do not prohibit insurers from
44 providing coverage on specified property insurance
45 policies for a roof that is limited to a certain
46 value; providing that a stated value sublimit of
47 coverage may not be applied to a roof in certain
48 circumstances; amending s. 627.70132, F.S.; revising
49 property insurance coverages for which a notice of
50 claim must be given to the insurer within a specified
51 timeframe; revising the timeframe for providing
52 notices of property insurance claims; revising the
53 definitions of the terms "supplemental claim" and
54 "reopened claim"; amending s. 627.7015, F.S.;

55 conforming a provision to changes made by the act;
56 authorizing property insurance policies to require
57 policyholders and assignees to participate in
58 mediation; creating s. 627.70152, F.S.; providing

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59 applicability; defining terms; requiring notice of
60 intent to initiate litigation; specifying requirements
61 for such notice; specifying an assignee's presuit
62 obligations; specifying the timeframe within which a
63 notice of intent to initiate litigation must be
64 served; requiring dismissal of certain actions under
65 specified circumstances; specifying the admissibility
66 of certain evidence; providing construction;
67 authorizing an insurer to request to inspect,
68 photograph, or evaluate certain property; specifying
69 requirements for such inspections, photographs, and
70 evaluations; authorizing motions to abate suits under
71 property insurance policies; specifying conditions for
72 abatement; providing for an award of attorney fees for
73 certain claims under specified circumstances;
74 providing for an award of attorney fees following a
75 voluntary dismissal under certain circumstances;
76 requiring the court to stay proceedings under certain
77 circumstances; creating s. 627.70153, F.S.; requiring
78 parties that are aware of certain residential property
79 insurance claims to notify the court of multiple
80 proceedings; authorizing the court to consolidate
81 certain residential property insurance claims upon
82 notification of any party; amending s. 627.7152, F.S.;
83 deleting definitions; requiring assignment agreements
84 to be provided to named insureds; providing that
85 assignment agreements do not modify the right of
86 insurers to communicate directly with unrepresented
87 named insureds; deleting a requirement for a notice of

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88 intent to initiate litigation; deleting requirements
89 for such notice; deleting a requirement for a written
90 response to the notice of intent to initiate
91 litigation; deleting requirements for such response;
92 deleting a provision related to an award of reasonable
93 attorney fees and costs for certain claims arising
94 under an assignment agreement; deleting a provision
95 related to an award of reasonable attorney fees and
96 costs following a voluntary dismissal under certain
97 circumstances; deleting a requirement for the court to
98 stay proceedings under certain circumstances;
99 requesting the Florida Supreme Court to amend rules to
100 require participating lawyers or firms to provide
101 closing statements to the department under certain
102 circumstances; providing an effective date.

103
104 Be It Enacted by the Legislature of the State of Florida:

105
106 Section 1. Subsection (9) of section 626.112, Florida
107 Statutes, is amended to read:

108 626.112 License and appointment required; agents, customer
109 representatives, adjusters, insurance agencies, service
110 representatives, managing general agents.—

111 (9) Any person who knowingly transacts insurance or
112 otherwise engages in insurance activities in this state without
113 a license in violation of this section or who knowingly aids or
114 abets an unlicensed person in transacting insurance or otherwise
115 engaging in insurance activities in this state without a license
116 commits a felony of the third degree, punishable as provided in

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117 s. 775.082, s. 775.083, or s. 775.084.

118 Section 2. Section 626.5813, Florida Statutes, is created
119 to read:

120 626.5813 Claims adjusting.-

121 (1) (a) As used in this section, the term "claims adjusting"
122 means directly or indirectly:

123 1. Attempting or undertaking to ascertain and determine the
124 amount of any claim, loss, or damage payable under an insurance
125 contract or undertaking to negotiate or effect settlement of a
126 claim, loss, or damage under an insurance contract, if such
127 action results in payment to or receipt of money, commission, or
128 any other thing of value by the party or parties rendering such
129 service or persons affiliated with such party or parties; or

130 2. Soliciting services as described in subparagraph 1. or
131 soliciting an insured or policyholder to file an insurance
132 claim.

133 (b) The term does not include:

134 1. Paid services as a spokesperson used as part of a
135 written or an electronic advertisement.

136 2. Paid services as a photographer or videographer used to
137 capture images of damage.

138 3. Paid services to inventory personal property or business
139 personal property.

140 4. Discussion or explanation of a bid for construction or
141 repair services by a licensed contractor under part I of chapter
142 489, or a subcontractor for a licensed contractor, with a
143 property owner or the insurer of the property.

144 (2) Except for a duly licensed attorney at law as exempted
145 under s. 626.860 or an agent as exempted under s. 626.862, a

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146 person may not provide claims adjusting services unless licensed
147 and appointed as an adjuster under this part.

148 (3) The department may take administrative action and
149 impose fines against any persons performing claims adjusting,
150 soliciting, marketing, or any other services under this section
151 or s. 626.854 without the licensure required under s. 626.112 or
152 s. 626.854.

153 Section 3. Subsections (3) and (4) are added to section
154 626.9373, Florida Statutes, to read:

155 626.9373 Attorney's fees.—

156 (3) In an award of attorney fees under this section for a
157 claim arising under a property insurance policy, a strong
158 presumption is created that a lodestar fee is sufficient and
159 reasonable. Such presumption may be rebutted only in a rare and
160 exceptional circumstance with evidence that competent counsel
161 could not be retained in a reasonable manner.

162 (4) (a) As used in this subsection, the term:

163 1. "Claimant" means an insured or assignee who is filing
164 suit under a property insurance policy.

165 2. "Demand" means the specific amount alleged to be owed by
166 the insurer to the claimant under the property insurance policy.

167 3. "Demand-judgment quotient" means the quotient obtained
168 by dividing the judgment by the demand.

169 4. "Incurred attorney fees" means the total amount of
170 attorney fees supported by sufficient evidence and determined by
171 the court to have been incurred by the claimant in bringing the
172 action.

173 5. "Judgment" means damages recovered, if any, but does not
174 include any amount awarded for attorney fees, costs, or

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175 interest.

176 (b) Notwithstanding any other provision of law, in a suit
177 arising under a residential or commercial property insurance
178 policy, attorney fees and costs may be recovered by a claimant
179 only pursuant to s. 57.105 and this subsection. Attorney fees
180 may be awarded to a claimant under this section as follows:

181 1. If the demand-judgment quotient is greater than or equal
182 to 0.8, the full amount of incurred attorney fees may be
183 awarded.

184 2. If the demand-judgment quotient is equal to or greater
185 than 0.2 but less than 0.8, the attorney fees must equal the
186 product of multiplying the incurred attorney fees by the demand-
187 judgment quotient.

188 3. If the demand-judgment quotient is less than 0.2,
189 attorney fees may not be awarded.

190 Section 4. Subsection (4) is added to section 627.428,
191 Florida Statutes, to read:

192 627.428 Attorney fees.—

193 (4) In an award of attorney fees under this section for a
194 claim arising under a property insurance policy, a strong
195 presumption is created that a lodestar fee is sufficient and
196 reasonable. Such presumption may be rebutted only in a rare and
197 exceptional circumstance with evidence that competent counsel
198 could not be retained in a reasonable manner.

199 Section 5. Paragraphs (f), (g), and (h) are added to
200 subsection (5) of section 627.7011, Florida Statutes, to read:

201 627.7011 Homeowners' policies; offer of replacement cost
202 coverage and law and ordinance coverage.—

203 (5) This section does not:

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204 (f) Prohibit an insurer, notwithstanding paragraph (1)(a),
205 from providing limited coverage on a personal lines residential
206 property insurance policy by including a roof surface
207 reimbursement schedule. If included in the policy, a roof
208 surface reimbursement schedule must do all of the following:

209 1. Provide reimbursement for repair, replacement, and
210 installation based on the annual age of a roof surface type.

211 2. Provide full replacement coverage for any roof surface
212 type less than 10 years old.

213 3. Unless otherwise demonstrated to the office to be
214 actuarially justified, provide for reimbursement amounts of no
215 less than:

216 a. Seventy percent for a metal roof type.

217 b. Forty percent for a concrete tile and clay tile roof
218 type.

219 c. Forty percent for a wood shake and wood shingle roof
220 type.

221 d. Twenty-five percent for all other roof types.

222 4. Include at the top of the schedule, in bold type no
223 smaller than 12 points, the following statement:

224
225 "PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO
226 PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SURFACE
227 REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED
228 PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING
229 TO THE SCHEDULE BELOW. BE ADVISED THAT THIS MAY RESULT IN YOU
230 HAVING TO PAY SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR ROOF.
231 PLEASE DISCUSS WITH YOUR INSURANCE AGENT."
232

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233 5. Allow for all actuarially sound methods of s. 627.062 to
 234 apply.

235 6. Be approved by the office.

236 7. Be provided to the insured with the policy documents at
 237 issuance and renewal.

238

239 A roof surface reimbursement schedule may not be applied to a
 240 roof if there is a total loss to a primary structure in
 241 accordance with the valued policy law under s. 627.702 which is
 242 caused by a covered peril.

243 (g) Prohibit an insurer that provides roof reimbursement on
 244 the basis of a roof surface reimbursement schedule from also
 245 offering roof reimbursement on the basis of replacement costs.

246 (h) Prohibit an insurer, notwithstanding paragraph (1)(a),
 247 from providing coverage on a personal lines residential property
 248 insurance policy by limiting coverage for a roof to a stated
 249 value sublimit of coverage. A stated value sublimit of coverage
 250 may not be applied to a roof if there is a total loss to the
 251 primary structure in accordance with the valued policy law under
 252 s. 627.702 which is caused by a covered peril.

253 Section 6. Section 627.70132, Florida Statutes, is amended
 254 to read:

255 627.70132 Notice of property insurance ~~windstorm or~~
 256 ~~hurricane~~ claim.—A claim, supplemental claim, or reopened claim
 257 under an insurance policy that provides property insurance, as
 258 defined in s. 624.604, including a property insurance policy
 259 issued by an eligible surplus lines insurer, for loss or damage
 260 ~~caused by the peril of windstorm or hurricane~~ is barred unless
 261 notice of the claim, supplemental claim, or reopened claim is

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262 ~~was~~ given to the insurer in accordance with the terms of the
263 policy within 2 ~~3~~ years after the date of loss ~~hurricane first~~
264 ~~made landfall or the windstorm caused the covered damage.~~ For
265 purposes of this section, the term "supplemental claim" or
266 "reopened claim" means any additional claim for recovery from
267 the insurer for losses ~~from the same hurricane or windstorm~~
268 ~~which~~ the insurer has previously adjusted pursuant to the
269 initial claim. This section does not affect any applicable
270 limitation on civil actions provided in s. 95.11 for claims,
271 supplemental claims, or reopened claims timely filed under this
272 section.

273 Section 7. Subsection (9) of section 627.7015, Florida
274 Statutes, is amended, and subsection (10) is added to that
275 section, to read:

276 627.7015 Alternative procedure for resolution of disputed
277 property insurance claims.—

278 (9) For purposes of this section, the term "claim" refers
279 to any dispute between an insurer and a policyholder relating to
280 a material issue of fact other than a dispute:

281 (a) With respect to which the insurer has a reasonable
282 basis to suspect fraud;

283 (b) When, based on agreed-upon facts as to the cause of
284 loss, there is no coverage under the policy;

285 (c) With respect to which the insurer has a reasonable
286 basis to believe that the policyholder has intentionally made a
287 material misrepresentation of fact which is relevant to the
288 claim, and the entire request for payment of a loss has been
289 denied on the basis of the material misrepresentation;

290 (d) With respect to which the amount in controversy is less

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291 than \$500, unless the parties agree to mediate a dispute
292 involving a lesser amount; or

293 (e) With respect to a ~~windstorm or hurricane~~ loss that does
294 not comply with s. 627.70132.

295 (10) A property insurance policy may require the
296 policyholder as a first-party claimant and a third party as an
297 assignee of the policy benefits to participate in mediation
298 pursuant to this section if requested by the insurer.

299 Section 8. Section 627.70152, Florida Statutes, is created
300 to read:

301 627.70152 Suits arising under a property insurance policy.-

302 (1) APPLICATION.-This section applies to all suits under a
303 property insurance policy, including actions brought by an
304 assignee.

305 (2) DEFINITIONS.-As used in this section, the term:

306 (a) "Assignee" has the same meaning as in s. 627.7152.

307 (b) "Claimant" means an insured or assignee who is filing
308 suit under a property insurance policy.

309 (c) "Demand" means the specific amount alleged to be owed
310 by the insurer to the claimant under the property insurance
311 policy.

312 (d) "Demand-judgment quotient" means the quotient obtained
313 by dividing the judgment by the demand.

314 (e) "Incurred attorney fees" means the total amount of
315 attorney fees supported by sufficient evidence and determined by
316 the court to have been incurred by the claimant in bringing the
317 action.

318 (f) "Judgment" means damages recovered, if any, but does
319 not include any amount awarded for attorney fees, costs, or

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320 interest.

321 (3) NOTICE.—

322 (a) As a condition precedent to filing a suit under a
323 property insurance policy, a claimant must provide the insurer a
324 written notice of intent to initiate litigation in accordance
325 with this section. Such notice must be served by certified mail,
326 return receipt requested, or electronic delivery at least 60
327 days before filing suit. However, such notice may not be served
328 before the insurer has made a determination of coverage under s.
329 627.70131. An attorney or other representative of the claimant
330 who provides such notice must provide a copy of the notice to
331 the claimant. The notice and any copy must specify:

332 1. That the notice is being provided pursuant to this
333 section;

334 2. The alleged acts or omissions of the insurer giving rise
335 to the action;

336 3. The demand;

337 4. The amount of reasonable and necessary attorney fees
338 incurred by the claimant, to be calculated by multiplying the
339 number of hours actually worked on the claim as of the date of
340 the notice by the claimant's attorney by a reasonable hourly
341 rate; and

342 5. If provided by an attorney or other representative, that
343 a copy of the notice was provided to the claimant.

344 (b) As a precondition to filing suit, an assignee also
345 must:

346 1. Comply with s. 627.7152; and

347 2. Concurrent with the notice, provide the named insured,
348 the insurer, and the assignor, if not the named insured, a

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349 detailed written invoice or estimate of services, including
350 itemized information on equipment, materials, and supplies; the
351 number of labor hours; and, in the case of work performed, proof
352 that the work has been performed in accordance with accepted
353 industry standards.

354 (c) A notice of intent to initiate litigation must be
355 served within the time limits provided in s. 95.11 and is not
356 required if the action is a counterclaim. Service of a notice
357 tolls the time limits provided in s. 95.11 for 60 days if such
358 time limits will expire before the end of the 60-day notice
359 period.

360 (d) A court must dismiss without prejudice any action
361 relating to a claim for which a notice of intent to initiate
362 litigation is given as required by this subsection if such
363 action is commenced before the expiration of the 60-day notice
364 period, is brought by an insurer to whom notice was given, and
365 is against the claimant giving notice.

366 (4) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
367 provided pursuant to subsection (3) and the submissions provided
368 pursuant to subparagraph (3)(b)2.:

369 (a) Are admissible as evidence in a civil action or an
370 alternative dispute resolution proceeding relating to the claim
371 for which the notice is given;

372 (b) Do not limit the evidence of attorney fees, damages, or
373 loss which may be offered at trial; and

374 (c) Do not relieve any obligation that an insured or
375 assignee has to give notice under any other provision of law.

376 (5) INSPECTION.—Within 30 days after an insurer receives
377 notice pursuant to subsection (3), the insurer may send a

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378 written request to the insured or assignee to inspect,
379 photograph, or evaluate, in a reasonable manner and at a
380 reasonable time, the property that is the subject of the claim.
381 If reasonably possible, the insurer must complete the
382 inspection, photography, and evaluation not later than 60 days
383 after the insurer receives the presuit notice. After completing
384 the inspection, the insurer must conduct an internal review by a
385 duly-qualified claims adjuster to fairly and promptly evaluate
386 the claim. This section does not limit any right provided in a
387 property insurance policy or contract to inspect property.

388 (6) ABATEMENT.—

389 (a) In addition to taking any other action allowed by an
390 insurance policy or a contract or by any other provision of law,
391 an insurer may file a motion to abate a suit under a property
392 insurance policy if the insurer:

393 1. Files the motion no later than the 30th day after the
394 insurer filed an original answer in the court in which the
395 action is pending; and

396 2. Did not receive notice required pursuant to subsection
397 (3) or requested an inspection pursuant to subsection (5) but
398 was not provided a reasonable opportunity to inspect,
399 photograph, or evaluate the property that is the subject of the
400 claim.

401 (b) The court shall abate the action if the court finds
402 that the insurer did not receive the notice required by
403 subsection (3) or requested an inspection pursuant to subsection
404 (5) but was not provided a reasonable opportunity to inspect,
405 photograph, or evaluate the property that is the subject of the
406 claim.

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407 (c) The action is abated without a court order beginning on
408 the 11th day after the motion to abate is filed if the motion to
409 abate:

410 1. Is verified and states that the insurer did not receive
411 the notice required by subsection (3) or requested an inspection
412 pursuant to subsection (5) but was not provided a reasonable
413 opportunity to inspect, photograph, or evaluate the property
414 that is the subject of the claim; and

415 2. Is not controverted by an affidavit filed by the insured
416 or assignee within 10 days after the date the plea in abatement
417 is filed.

418 (d) An affidavit filed pursuant to subparagraph (c)2. must
419 include as an attachment a copy of the written notice sent
420 pursuant to subsection (3) and state the date on which such
421 notice was given.

422 (e) Abatement under this subsection continues until the
423 later of:

424 1. Sixty days after the claimant provides notice to the
425 insurer in compliance with subsection (3); or

426 2. Fifty days after the insurer completes the requested
427 inspection, photographing, or evaluating of the property
428 pursuant to subsection (5).

429 (f) If an action is abated pursuant to this subsection, a
430 court may not compel during the abatement period participation
431 in mediation pursuant to s. 627.7015 or neutral evaluation
432 pursuant to s. 627.7074.

433 (7) ATTORNEY FEES.—

434 (a) Notwithstanding any other provision of law, in a suit
435 arising under a residential or commercial property insurance

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436 policy, attorney fees and costs may be recovered by a claimant
437 only pursuant to s. 57.105 and this subsection. Attorney fees
438 may be awarded to a claimant under this section as follows:

439 1. If the demand-judgment quotient is greater than or equal
440 to 0.8, the full amount of incurred attorney fees may be
441 awarded.

442 2. If the demand-judgment quotient is equal to or greater
443 than 0.2 but less than 0.8, the attorney fees must equal the
444 product of multiplying the incurred attorney fees by the demand-
445 judgment quotient.

446 3. If the demand-judgment quotient is less than 0.2,
447 attorney fees may not be awarded.

448 (b) If an insurer pleads and proves that it did not receive
449 notice that complies with subsection (3) and files such pleading
450 no later than the 30th day after the insurer files an original
451 answer in the court in which the action is pending, the court
452 may not award to the claimant any incurred attorney fees for
453 services rendered after the date on which the insurer files such
454 pleading with the court.

455 (c) If a claimant commences an action in any court of this
456 state based upon or including the same claim against the same
457 adverse party that such insured or assignee has previously
458 voluntarily dismissed in a court of this state, the court may
459 order the insured or assignee to pay the attorney fees and costs
460 of the adverse party resulting from the action previously
461 voluntarily dismissed. The court shall stay the proceedings in
462 the subsequent action until the insured or assignee has complied
463 with the order.

464 Section 9. Section 627.70153, Florida Statutes, is created

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465 to read:

466 627.70153 Consolidation of residential property insurance
467 actions.—Each party that is aware of ongoing multiple actions
468 involving coverage provided under the same residential property
469 insurance policy for the same property with the same owners must
470 provide written notice to the court of the multiple actions.
471 Upon notification of any party, the court may order that the
472 actions be consolidated and transferred to the court having
473 jurisdiction based on the total amount in controversy of all
474 consolidated claims. If multiple cases are pending in circuit
475 courts, the cases may be consolidated based on the date on which
476 the first case was filed.

477 Section 10. Paragraphs (d) through (g) of subsection (1),
478 paragraph (a) of subsection (2), and subsections (5), (9), and
479 (10) of section 627.7152, Florida Statutes, are amended to read:

480 627.7152 Assignment agreements.—

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

482 ~~(d) "Disputed amount" means the difference between the~~
483 ~~assignee's presuit settlement demand and the insurer's presuit~~
484 ~~settlement offer.~~

485 ~~(e) "Judgment obtained" means damages recovered, if any,~~
486 ~~but does not include any amount awarded for attorney fees,~~
487 ~~costs, or interest.~~

488 ~~(f) "Presuit settlement demand" means the demand made by~~
489 ~~the assignee in the written notice of intent to initiate~~
490 ~~litigation as required by paragraph (9) (a).~~

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

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- 494 (2) (a) An assignment agreement must:
- 495 1. Be in writing and executed by and between the assignor
496 and the assignee.
- 497 2. Contain a provision that allows the assignor to rescind
498 the assignment agreement without a penalty or fee by submitting
499 a written notice of rescission signed by the assignor to the
500 assignee within 14 days after the execution of the agreement, at
501 least 30 days after the date work on the property is scheduled
502 to commence if the assignee has not substantially performed, or
503 at least 30 days after the execution of the agreement if the
504 agreement does not contain a commencement date and the assignee
505 has not begun substantial work on the property.
- 506 3. Contain a provision requiring the assignee to provide a
507 copy of the executed assignment agreement to the insurer and the
508 named insured within 3 business days after the date on which the
509 assignment agreement is executed or the date on which work
510 begins, whichever is earlier. Delivery of the copy of the
511 assignment agreement to the insurer and the named insured may be
512 made:
- 513 a. By personal service, overnight delivery, or electronic
514 transmission, with evidence of delivery in the form of a receipt
515 or other paper or electronic acknowledgment by the insurer or
516 named insured, as applicable; or
- 517 b. To the location designated for the insurer's receipt of
518 such agreements as specified in the policy.
- 519 4. Contain a written, itemized, per-unit cost estimate of
520 the services to be performed by the assignee.
- 521 5. Relate only to work to be performed by the assignee for
522 services to protect, repair, restore, or replace a dwelling or

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523 structure or to mitigate against further damage to such
524 property.

525 6. Contain the following notice in 18-point uppercase and
526 boldfaced type:

527

528 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE
529 UNDER YOUR INSURANCE POLICY TO A THIRD PARTY, WHICH
530 MAY RESULT IN LITIGATION AGAINST YOUR INSURER. PLEASE
531 READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT.
532 YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT
533 PENALTY WITHIN 14 DAYS AFTER THE DATE THIS AGREEMENT
534 IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
535 THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE
536 HAS NOT SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS
537 AFTER THE EXECUTION OF THE AGREEMENT IF THE AGREEMENT
538 DOES NOT CONTAIN A COMMENCEMENT DATE AND THE ASSIGNEE
539 HAS NOT BEGUN SUBSTANTIAL WORK ON THE PROPERTY.
540 HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF ANY
541 CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS
542 RESCINDED. THIS AGREEMENT DOES NOT CHANGE YOUR
543 OBLIGATION TO PERFORM THE DUTIES REQUIRED UNDER YOUR
544 PROPERTY INSURANCE POLICY.

545

546 7. Contain a provision requiring the assignee to indemnify
547 and hold harmless the assignor from all liabilities, damages,
548 losses, and costs, including, but not limited to, attorney fees,
549 should the policy subject to the assignment agreement prohibit,
550 in whole or in part, the assignment of benefits.

551 (5) An assignment agreement and this section do not modify

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552 or eliminate:

553 (a) Any term, condition, or defense relating to any managed
554 repair arrangement provided in the policy.

555 (b) The right of an insurer to communicate directly with
556 the named insured if such insured is not represented by counsel.

557 ~~(9) (a) An assignee must provide the named insured, insurer,~~
558 ~~and the assignor, if not the named insured, with a written~~
559 ~~notice of intent to initiate litigation before filing suit under~~
560 ~~the policy. Such notice must be served by certified mail, return~~
561 ~~receipt requested, or electronic delivery at least 10 business~~
562 ~~days before filing suit, but may not be served before the~~
563 ~~insurer has made a determination of coverage under s. 627.70131.~~
564 ~~The notice must specify the damages in dispute, the amount~~
565 ~~claimed, and a presuit settlement demand. Concurrent with the~~
566 ~~notice, and as a precondition to filing suit, the assignee must~~
567 ~~provide the named insured, insurer, and the assignor, if not the~~
568 ~~named insured, a detailed written invoice or estimate of~~
569 ~~services, including itemized information on equipment,~~
570 ~~materials, and supplies; the number of labor hours; and, in the~~
571 ~~case of work performed, proof that the work has been performed~~
572 ~~in accordance with accepted industry standards.~~

573 ~~(b) An insurer must respond in writing to the notice within~~
574 ~~10 business days after receiving the notice specified in~~
575 ~~paragraph (a) by making a presuit settlement offer or requiring~~
576 ~~the assignee to participate in appraisal or other method of~~
577 ~~alternative dispute resolution under the policy. An insurer must~~
578 ~~have a procedure for the prompt investigation, review, and~~
579 ~~evaluation of the dispute stated in the notice and must~~
580 ~~investigate each claim contained in the notice in accordance~~

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581 ~~with the Florida Insurance Code.~~

582 ~~(10) Notwithstanding any other provision of law, in a suit~~
583 ~~related to an assignment agreement for post-loss claims arising~~
584 ~~under a residential or commercial property insurance policy,~~
585 ~~attorney fees and costs may be recovered by an assignee only~~
586 ~~under s. 57.105 and this subsection.~~

587 ~~(a) If the difference between the judgment obtained by the~~
588 ~~assignee and the presuit settlement offer is:~~

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

591 ~~2. At least 25 percent but less than 50 percent of the~~
592 ~~disputed amount, no party is entitled to an award of attorney~~
593 ~~fees.~~

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

596 ~~(b) If the insurer fails to inspect the property or provide~~
597 ~~written or oral authorization for repairs within 7 calendar days~~
598 ~~after the first notice of loss, the insurer waives its right to~~
599 ~~an award of attorney fees under this subsection. If the failure~~
600 ~~to inspect the property or provide written or oral authorization~~
601 ~~for repairs is the result of an event for which the Governor had~~
602 ~~declared a state of emergency under s. 252.36, factors beyond~~
603 ~~the control of the insurer which reasonably prevented an~~
604 ~~inspection or written or oral authorization for repairs, or the~~
605 ~~named insured's failure or inability to allow an inspection of~~
606 ~~the property after a request by the insurer, the insurer does~~
607 ~~not waive its right to an award of attorney fees under this~~
608 ~~subsection.~~

609 ~~(c) If an assignee commences an action in any court of this~~

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610 ~~state based upon or including the same claim against the same~~
611 ~~adverse party that such assignee has previously voluntarily~~
612 ~~dismissed in a court of this state, the court may order the~~
613 ~~assignee to pay the attorney fees and costs of the adverse party~~
614 ~~resulting from the action previously voluntarily dismissed. The~~
615 ~~court shall stay the proceedings in the subsequent action until~~
616 ~~the assignee has complied with the order.~~

617 Section 11. The Supreme Court of Florida is requested to
618 amend the Rules of Professional Conduct of the Rules Regulating
619 The Florida Bar to require that, when a recovery judgment has
620 been awarded in a residential or commercial residential property
621 claim, each participating lawyer or law firm must provide
622 closing statements itemizing the amount of the fee received by
623 each participating lawyer or law firm, costs, and expenses to
624 the Department of Financial Services.

625 Section 12. This act shall take effect July 1, 2021.