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LEGISLATIVE ACTION

Senate

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House

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Senator Polsky moved the following:

**Senate Amendment (with title amendment)**

Between lines 2607 and 2608  
insert:

Section 17. Section 627.7015, Florida Statutes, is amended  
to read:

627.7015 Mandatory mediation ~~Alternative procedure~~ for  
resolution of disputed property insurance claims.—

(1) This section sets forth a nonadversarial ~~alternative~~



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dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, nonthreatening forum for helping parties ~~who elect this procedure~~ to resolve their claims disputes because most homeowner and commercial residential insurance policies obligate policyholders to participate in a potentially expensive and time-consuming adversarial appraisal process before litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, policyholders and insurers are encouraged to resolve claims as quickly and fairly as possible. This section applies is ~~available with respect~~ to claims under personal lines and commercial residential policies before commencing the appraisal process, or before commencing litigation. ~~Mediation may be requested only by the policyholder, as a first-party claimant, a third-party, as an assignee of the policy benefits, or the insurer. However, an insurer is not required to participate in any mediation requested by a third-party assignee of the policy benefits. If requested by the policyholder,~~ Participation by legal counsel is permitted. Mediation under this section is also required of available to litigants referred to the department by a county court or circuit court. This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(2) At the time of issuance and renewal of a policy or at



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the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder of ~~its right to participate in the~~ mandatory mediation program under this section. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation.

(3) If the parties mutually agree, mediation may be conducted by teleconference or by telephone in lieu of appearing in person. The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the administrator must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund.

(4) The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department shall ~~may~~ also adopt special rules



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which are applicable in cases of an emergency within the state,  
including emergency rules as necessary to establish physical  
addresses for the mediation program in areas affected by natural  
disasters. The rules shall be modeled after practices and  
procedures set forth in mediation rules of procedure adopted by  
the Supreme Court. The rules shall provide for:

(a) Reasonable requirement for processing and scheduling of  
requests for mediation.

(b) Qualifications, denial of application, suspension,  
revocation of approval, and other penalties for mediators as  
provided in s. 627.745 and the Florida Rules for Certified and  
Court-Appointed Mediators.

(c) Provisions governing who may attend mediation  
conferences.

(d) Selection of mediators.

(e) Criteria for the conduct of mediation conferences.

(f) Right to legal counsel.

(5) All statements made and documents produced at a  
mediation conference shall be deemed to be settlement  
negotiations in anticipation of litigation within the scope of  
s. 90.408. All parties to the mediation must negotiate in good  
faith and must have the authority to immediately settle the  
claim. Mediators are deemed to be agents of the department and  
shall have the immunity from suit provided in s. 44.107.

(6) (a) Mediation is nonbinding; however, if a written  
settlement is reached, the policyholder has 3 business days  
within which the policyholder may rescind the settlement unless  
the policyholder has cashed or deposited any check or draft  
disbursed to the policyholder for the disputed matters as a



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98 result of the conference. If a settlement agreement is reached  
99 and is not rescinded, it is binding and acts as a release of all  
100 specific claims that were presented in that mediation  
101 conference.

102 (b) At the conclusion of the mediation, the mediator shall  
103 provide a written report of the results of mediation, including  
104 any settlement amount, to the insurer, the policyholder, and the  
105 policyholder's representative if the policyholder is represented  
106 at the mediation.

107 (7) If the insurer fails to comply with subsection (2) by  
108 failing to notify a policyholder of ~~its right to participate in~~  
109 the mediation program under this section or if ~~the insurer~~  
110 ~~requests the mediation,~~ and the mediation results are rejected  
111 by either party, the policyholder is not required to submit to  
112 or participate in any contractual loss appraisal process of the  
113 property loss damage as a precondition to legal action for  
114 breach of contract against the insurer for its failure to pay  
115 the policyholder's claims covered by the policy.

116 (8) The department may designate an entity or person to  
117 serve as administrator to carry out any of the provisions of  
118 this section and may take this action by means of a written  
119 contract or agreement.

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

123 (a) With respect to which the insurer has a reasonable  
124 basis to suspect fraud;

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



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

(d) With respect to which the amount in controversy is less than \$500, unless the parties agree to mediate a dispute involving a lesser amount; or

(e) With respect to a loss that does not comply with s. 627.70132.

Section 18. For the 2022-2023 fiscal year, the sum of \$1 million in recurring funds is appropriated from the Insurance Regulatory Trust Fund to the Department of Financial Services for the purpose of administering the amendment made by this act to s. 627.7015, Florida Statutes.

===== T I T L E   A M E N D M E N T =====  
And the title is amended as follows:

Delete line 119

and insert:

barred; amending s. 627.7015, F.S.; requiring, rather than authorizing, parties to a property insurance claims dispute to participate in mediation; providing that the parties may mutually agree to conduct the mediation by teleconference or by telephone; requiring, rather than authorizing, the Department of Financial Services to adopt certain rules; authorizing the department to adopt certain emergency rules; providing an appropriation; amending s. 627.70152,



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F.S.; revising