



938406

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

Floor: 19/F/2R

12/13/2022 03:34 PM

Senator Thompson moved the following:

Senate Amendment (with title amendment)

Delete lines 2400 - 2682

and insert:

(1) Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as



938406

12 fees or compensation for the insured's or beneficiary's attorney
13 prosecuting the suit in which the recovery is had. In a suit
14 arising under a residential or commercial property insurance
15 policy, the amount of reasonable attorney fees shall be awarded
16 only as provided in s. 57.105, ~~or~~ s. 627.70152, or s. 768.79, as
17 applicable.

18 ~~(4) In a suit arising under a residential or commercial~~
19 ~~property insurance policy, the right to attorney fees under this~~
20 ~~section may not be transferred to, assigned to, or acquired in~~
21 ~~any other manner by anyone other than a named or omnibus insured~~
22 ~~or a named beneficiary.~~

23 Section 14. Paragraph (b) of subsection (4) of section
24 627.7011, Florida Statutes, is amended to read:

25 627.7011 Homeowners' policies; offer of replacement cost
26 coverage and law and ordinance coverage.—

27 (4)

28 (b) An insurer that issues a homeowner's insurance policy
29 that does not provide flood insurance coverage must include on
30 the policy declarations page ~~with the policy documents~~ at
31 initial issuance and every renewal, in bold type no smaller than
32 18 points, the following statement:

33

34 "FLOOD INSURANCE: YOU SHOULD ~~MAY ALSO NEED TO~~ CONSIDER
35 THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S
36 INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE
37 RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN
38 CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD
39 INSURANCE COVERAGE, YOUR ~~YOU MAY HAVE~~ UNCOVERED LOSSES
40 CAUSED BY FLOOD ARE NOT COVERED. PLEASE DISCUSS THE



938406

41 NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE
42 WITH YOUR INSURANCE AGENT.”

43
44 Section 15. Effective March 1, 2023, present subsection (8)
45 of section 627.70131, Florida Statutes, is redesignated as
46 subsection (9), a new subsection (8) is added to that section,
47 and paragraph (a) of subsection (1), subsections (3), (4), and
48 (5), and paragraph (a) of subsection (7) of that section are
49 amended, to read:

50 627.70131 Insurer's duty to acknowledge communications
51 regarding claims; investigation.-

52 (1) (a) Upon an insurer's receiving a communication with
53 respect to a claim, the insurer shall, within 7 ~~14~~ calendar
54 days, review and acknowledge receipt of such communication
55 unless payment is made within that period of time or unless the
56 failure to acknowledge is caused by factors beyond the control
57 of the insurer ~~which reasonably prevent such acknowledgment~~. If
58 the acknowledgment is not in writing, a notification indicating
59 acknowledgment shall be made in the insurer's claim file and
60 dated. A communication made to or by a representative of an
61 insurer with respect to a claim shall constitute communication
62 to or by the insurer.

63 (3) (a) Unless otherwise provided by the policy of insurance
64 or by law, within 7 ~~14~~ days after an insurer receives proof-of-
65 loss statements, the insurer shall begin such investigation as
66 is reasonably necessary unless the failure to begin such
67 investigation is caused by factors beyond the control of the
68 insurer ~~which reasonably prevent the commencement of such~~
69 ~~investigation~~.



938406

70 (b) If such investigation involves a physical inspection of
71 the property, the licensed adjuster assigned by the insurer must
72 provide the policyholder with a printed or electronic document
73 containing his or her name and state adjuster license number.
74 ~~For claims other than those subject to a hurricane deductible,~~
75 An insurer must conduct any such physical inspection within 30
76 ~~45~~ days after its receipt of the proof-of-loss statements.

77 (c) Any subsequent communication with the policyholder
78 regarding the claim must also include the name and license
79 number of the adjuster communicating about the claim.
80 Communication of the adjuster's name and license number may be
81 included with other information provided to the policyholder.

82 (d) An insurer may use electronic methods to investigate
83 the loss. Such electronic methods may include any method that
84 provides the insurer with clear, color pictures or video
85 documenting the loss, including, but not limited to, electronic
86 photographs or video recordings of the loss, video conferencing
87 between the adjuster and the policyholder which includes video
88 recording of the loss, and video recordings or photographs of
89 the loss using a drone, driverless vehicle, or other machine
90 that can move independently or through remote control. The
91 insurer also may allow the policyholder to use such methods to
92 assist in the investigation of the loss. An insurer may void the
93 insurance policy if the policyholder or any other person at the
94 direction of the policyholder, with intent to injure, defraud,
95 or deceive any insurer, commits insurance fraud by providing
96 false, incomplete, or misleading information concerning any fact
97 or thing material to a claim using electronic methods. The use
98 of electronic methods to investigate the loss does not prohibit



938406

99 an insurer from assigning a licensed adjuster to physically
100 inspect the property.

101 ~~(e) Within 7 days after the insurer's assignment of an~~
102 ~~adjuster to the claim, The insurer must send notify the~~
103 ~~policyholder that he or she may request a copy of any detailed~~
104 ~~estimate of the amount of the loss within 7 days after the~~
105 ~~estimate is generated by an insurer's adjuster. ~~After receiving~~~~
106 ~~such a request from the policyholder, the insurer must send any~~
107 ~~such detailed estimate to the policyholder within the later of 7~~
108 ~~days after the insurer received the request or 7 days after the~~
109 ~~detailed estimate of the amount of the loss is completed. This~~
110 ~~paragraph does not require that an insurer create a detailed~~
111 ~~estimate of the amount of the loss if such estimate is not~~
112 ~~reasonably necessary as part of the claim investigation.~~

113 (4) An insurer shall maintain:

114 (a) A record or log of each adjuster who communicates with
115 the policyholder as provided in paragraphs (3)(b) and (c) and
116 provide a list of such adjusters to the insured, office, or
117 department upon request.

118 (b) Claim records, including dates, of:

119 1. Any claim-related communication made between the insurer
120 and the policyholder or the policyholder's representative;

121 2. The insurer's receipt of the policyholder's proof of
122 loss statement;

123 3. Any claim-related request for information made by the
124 insurer to the policyholder or the policyholder's
125 representative;

126 4. Any claim-related inspections of the property made by
127 the insurer, including physical inspections and inspections made



938406

128 by electronic means;

129 5. Any detailed estimate of the amount of the loss
130 generated by the insurer's adjuster;

131 6. The beginning and end of any tolling period provided for
132 in subsection (8); and

133 7. The insurer's payment or denial of the claim.

134 (5) For purposes of this section, the term:

135 (a) "Factors beyond the control of the insurer" means:

136 1. Any of the following events that is the basis for the
137 office issuing an order finding that such event renders all or
138 specified residential property insurers reasonably unable to
139 meet the requirements of this section in specified locations and
140 ordering that such insurer or insurers may have additional time
141 as specified by the office to comply with the requirements of
142 this section: a state of emergency declared by the Governor
143 under s. 252.36, a breach of security that must be reported
144 under s. 501.171(3), or an information technology issue. The
145 office may not extend the period for payment or denial of a
146 claim for more than 30 additional days.

147 2. Actions by the policyholder or the policyholder's
148 representative which constitute fraud, lack of cooperation, or
149 intentional misrepresentation regarding the claim for which
150 benefits are owed when such actions reasonably prevent the
151 insurer from complying with any requirement of this section.

152 (b) "Insurer" means any residential property insurer.

153 (7) (a) Within 60 ~~90~~ days after an insurer receives notice
154 of an initial, reopened, or supplemental property insurance
155 claim from a policyholder, the insurer shall pay or deny such
156 claim or a portion of the claim unless the failure to pay is



938406

157 caused by factors beyond the control of the insurer ~~which~~
158 ~~reasonably prevent such payment~~. The insurer shall provide a
159 reasonable explanation in writing to the policyholder of the
160 basis in the insurance policy, in relation to the facts or
161 applicable law, for the payment, denial, or partial denial of a
162 claim. If the insurer's claim payment is less than specified in
163 any insurer's detailed estimate of the amount of the loss, the
164 insurer must provide a reasonable explanation in writing of the
165 difference to the policyholder. Any payment of an initial or
166 supplemental claim or portion of such claim made 60 ~~90~~ days
167 after the insurer receives notice of the claim, or made ~~more~~
168 ~~than 15 days~~ after the expiration of any additional timeframe
169 provided to pay or deny a claim or a portion of a claim made
170 pursuant to an order of the office finding ~~there are no longer~~
171 factors beyond the control of the insurer ~~which reasonably~~
172 ~~prevented such payment~~, whichever is later, bears interest at
173 the rate set forth in s. 55.03. Interest begins to accrue from
174 the date the insurer receives notice of the claim. The
175 provisions of this subsection may not be waived, voided, or
176 nullified by the terms of the insurance policy. If there is a
177 right to prejudgment interest, the insured must select whether
178 to receive prejudgment interest or interest under this
179 subsection. Interest is payable when the claim or portion of the
180 claim is paid. Failure to comply with this subsection
181 constitutes a violation of this code. However, failure to comply
182 with this subsection does not form the sole basis for a private
183 cause of action.

184 (8) The requirements of this section are tolled:

185 (a) During the pendency of any mediation proceeding under



938406

186 s. 627.7015 or any alternative dispute resolution proceeding
187 provided for in the insurance contract. The tolling period ends
188 upon the end of the mediation or alternative dispute resolution
189 proceeding.

190 (b) Upon the failure of a policyholder or a representative
191 of the policyholder to provide material claims information
192 requested by the insurer within 10 days after the request was
193 received. The tolling period ends upon the insurer's receipt of
194 the requested information. Tolling under this paragraph applies
195 only to requests sent by the insurer to the policyholder or a
196 representative of the policyholder at least 15 days before the
197 insurer is required to pay or deny the claim or a portion of the
198 claim under subsection (7).

199 Section 16. Subsection (2) of section 627.70132, Florida
200 Statutes, is amended to read:

201 627.70132 Notice of property insurance claim.—

202 (2) A claim or reopened claim, but not a supplemental
203 claim, under an insurance policy that provides property
204 insurance, as defined in s. 624.604, including a property
205 insurance policy issued by an eligible surplus lines insurer,
206 for loss or damage caused by any peril is barred unless notice
207 of the claim was given to the insurer in accordance with the
208 terms of the policy within 1 year ~~2 years~~ after the date of
209 loss. A supplemental claim is barred unless notice of the
210 supplemental claim was given to the insurer in accordance with
211 the terms of the policy within 18 months ~~3 years~~ after the date
212 of loss.

213 Section 17. Subsection (1) of section 627.70152, Florida
214 Statutes, is amended to read:



938406

215 627.70152 Suits arising under a property insurance policy.-

216 (1) APPLICATION.-This section applies exclusively to all
217 suits ~~not brought by an assignee~~ arising under a residential or
218 commercial property insurance policy, including a residential or
219 commercial property insurance policy issued by an eligible
220 surplus lines insurer.

221
222 ===== T I T L E A M E N D M E N T =====

223 And the title is amended as follows:

224 Delete lines 99 - 125

225 and insert:

226 627.428, F.S.; revising conditions under which
227 attorney fees may be awarded in suits arising under a
228 residential or commercial property insurance policy;
229 deleting a restriction on transferring, assigning, or
230 acquiring a certain right to attorney fees; amending
231 s. 627.7011, F.S.; revising disclosure requirements
232 relating to flood insurance for insurers issuing
233 homeowners' policies; amending s. 627.70131, F.S.;
234 revising requirements for insurers relating to
235 acknowledging communications regarding claims,
236 investigating claims, sending estimates of losses to
237 policyholders, recordkeeping, and paying or denying
238 claims; authorizing insurers to use specified methods
239 in investigating losses; authorizing insurers to void
240 insurance policies under certain circumstances;
241 defining the term "factors beyond the control of the
242 insurer"; specifying circumstances under which certain
243 requirements are tolled; providing construction;



938406

244 amending s. 627.70132, F.S.; revising timeframes under
245 which notices of claims, reopened claims, and
246 supplemental claims under property insurance policies
247 must be given to insurers or be barred; amending s.
248 627.70152, F.S.; revising applicability of provisions
249 relating to suits arising under a property insurance
250 policy; creating s. 627.70154, F.S.; specifying