

1 A bill to be entitled
 2 An act relating to hurricane property insurance claim
 3 mediation; creating s. 627.70154, F.S.; providing
 4 legislative purpose and findings; establishing the
 5 Hurricane Property Insurance Claim Alternate Dispute
 6 Resolution Program within the Office of Insurance
 7 Regulation; providing requirements for mediators,
 8 insurers, and insureds to participate in the program;
 9 requiring the office to maintain a list of
 10 participating mediators; providing requirements for
 11 insurers and insureds; requiring insurers to provide a
 12 disclosure form with program information to certain
 13 insureds; providing construction; requiring the
 14 Department of Financial Services to adopt rules to
 15 administer the program; providing an effective date.

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

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 19 Section 1. Section 627.70154, Florida Statutes, is created
 20 to read:

21 627.70154 The Hurricane Property Insurance Claim Alternate
 22 Dispute Resolution Program.—

23 (1) LEGISLATIVE PURPOSE AND FINDINGS.—

24 (a) The purpose of the Hurricane Property Insurance Claim
 25 Alternate Dispute Resolution Program is to provide a

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26 nonadversarial alternative dispute resolution procedure that is
27 prompted by the need for effective, fair, and timely handling of
28 residential property insurance claims for residential properties
29 that are damaged by a hurricane.

30 (b) The Legislature finds that the program is a valid
31 public purpose providing citizens of the state an alternate
32 resolution dispute program to assist in resolving residential
33 property insurance claims in a timely manner and at a lower
34 cost.

35 (2) PROGRAM ESTABLISHMENT.—The Hurricane Property
36 Insurance Claim Alternate Dispute Resolution Program is
37 established within the Office of Insurance Regulation.

38 (3) PROGRAM PARTICIPATION.—

39 (a) Every insured may, at his or her discretion, request
40 mediation through the program if he or she has a residential
41 property insurance claim for property damage that involves
42 disputed amounts up to \$150,000 for damage to property located
43 within the geographic area that is the subject of the declared
44 state of emergency for a named storm and the insured has a
45 claim. However, if the disputed amounts are in excess of
46 \$150,000, the insured and insurer must both agree to mediation
47 through the program and be subject to the requirements of this
48 section if the property is located within the geographic area
49 that is the subject of the declared state of emergency for a
50 named storm event.

51 (b) If the insured decides to mediate a damage dispute
52 through the program, the insured shall contact one of the
53 participating mediators listed on the Office of Insurance
54 Regulation's website.

55 (4) MEDIATOR AND MEDIATION REQUIREMENTS.-

56 (a) A mediator that elects to participate in the program
57 must comply with all of the following:

58 1. The mediator must contact the Office of Insurance
59 Regulation for inclusion in the program and provide the office
60 with the mediator's official name, contact information, address,
61 e-mail address, and telephone number.

62 2. The mediator must agree to all of the requirements of
63 this section.

64 3. The cost of the mediation must be reasonable.

65 (b) Upon receiving an assignment through the program, a
66 mediator:

67 1. Within 5 business days after receiving an assignment
68 through the program, must contact the insurer and the insured to
69 notify both that the mediator has been selected to mediate the
70 insurer's claim.

71 2. Must set a date for mediation within 30 days after
72 receiving the assignment.

73 3. Is in charge of the mediation and must establish and
74 describe the mediation procedures. The mediator shall conduct
75 the mediation in accordance with the standards of professional

76 conduct for mediation adopted by the American Bar Association.

77 4. May meet with the insurer and the insured separately to
 78 encourage meaningful communications, negotiations, and otherwise
 79 assist the insurer and the insured to arrive at a settlement.

80 5. Must, when conducting in-person mediation, conduct such
 81 mediation statewide in a metropolitan statistical area at an
 82 office or business location to be selected by the mediator. The
 83 insured may not be charged for use of a venue. The insurer or
 84 the insured may participate in the mediation remotely via
 85 telephone, video conference, or other similar electronic means
 86 if notification is provided to all parties, including the
 87 mediator, in advance of the mediation. The mediation session may
 88 last up to 90 minutes of actual mediation with the insurer and
 89 the insured. The 90 minutes may not include time spent on
 90 telephone calls, document review, research, or any other
 91 administrative tasks the mediator finds necessary to prepare for
 92 the mediation.

93 (c)1. Mediation through the program is voluntary and
 94 nonbinding. Any agreement between the insurer and the insured
 95 shall be produced in writing. The insurer and the insured shall
 96 sign the agreement signifying the portions of the claim dispute
 97 which have been resolved in whole or in part.

98 2. If a whole or partial settlement is reached, the
 99 insured shall have 3 business days within which to rescind the
 100 settlement unless the insured has cashed or deposited any check

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101 or draft disbursed to the insured for the disputed matters as a
102 result of the mediation conference. If a settlement agreement is
103 reached and is not rescinded, the written settlement agreement
104 shall be binding and shall act as a release of all specific
105 claims that were presented in the mediation conference.

106 3. The insurer shall disburse to the insured the specific
107 dollar amount agreed to within 30 days after the conclusion of
108 the mediation.

109 4. If the insurer and the insured reach a partial
110 agreement as to the disputed claim, the insurer and the insured
111 may continue to use the service of the mediator after the
112 parties have completed voluntary mediation under the program. If
113 the insurer and the insured agree to further mediation, both
114 parties are responsible for any additional mediation expenses at
115 the mediator's standard rate.

116 (5) OFFICE OF INSURANCE REGULATION REQUIREMENTS.—The
117 Office of Insurance Regulation shall maintain a list of
118 mediators that elect to participate in the program, including
119 the information required in subparagraph (5)(a)1.

120 (6) INSURER AND INSURED REQUIREMENTS.—An insurer and
121 insured who elects to participate in the program must agree to
122 the following conditions:

123 (a) The insurer shall bear all of the reasonable costs
124 necessary to conduct mediation conferences, except if the
125 insured fails to appear at the mediation conference. If the

126 insured fails to appear, the conference shall be rescheduled
 127 upon payment of the costs of a reschedule mediation conference
 128 by the insured.

129 (b) If the insurer fails to appear at the mediation
 130 conference, the insurer must pay the insured's actual cash
 131 expenses up to \$250 for expenses incurred in traveling to and
 132 from the mediation conference and must also pay the costs of to
 133 reschedule the mediation conference. An insurer who fails to
 134 appear at the mediation conference may be in violation of s.
 135 626.9541 unless such failure to appear was due to good cause. An
 136 insurer's representative who appears at the mediation conference
 137 without settlement authority is considered failure to appear at
 138 the mediation conference.

139 (c) The insurer must provide the mediator with all of the
 140 following:

141 1. The insured's name, address, e-mail address, if
 142 applicable, and telephone number and the address of the property
 143 if such address is different from the address given by the
 144 insured.

145 2. The claim number of the insured.

146 3. A brief description of the dispute.

147 4. The name, address, e-mail address, and telephone number
 148 of the insurer's contact for scheduling the mediation.

149 5. Information with respect to any other policies issued
 150 by the insurer to the insured that may provide coverage of the

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151 insured property for named perils like flood or windstorm.

152 (d) Within 5 business days after the mediator contacts the
153 insurer and the insured, the insurer and the insured must
154 provide the mediator all relevant written documentation
155 regarding the disputed claim and a short statement as to why the
156 parties have not been able to reach an amicable resolution. The
157 mediator may request additional documentation from the insurer
158 or the insured. The insurer and the insured must comply with any
159 reasonable requests for additional documentation or give an
160 explanation as to the reason the insurer or the insured is not
161 able to comply with the request.

162 (e) The insured may be represented by an attorney or other
163 representative in the mediation and the insured must provide the
164 name and contact information for the attorney or other
165 representative to the mediator at least 6 days before the date
166 of the mediation.

167 (f) All parties must negotiate in good faith.

168 (g) The insurer and the insured shall be given an
169 opportunity to present each side of the dispute and each side
170 may use any relevant documents and bring any individuals with
171 knowledge of the issues, including adjusters, appraisers, or
172 contractors, to address the mediator. All statements made and
173 documents produced at the mediation conference shall be
174 considered settlement negotiations in anticipation of
175 litigation.

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176 (7) DISCLOSURE NOTICE.—If the Governor declares a state of
177 emergency for a named windstorm event, an insurer writing
178 residential property insurance in the state shall send a
179 Hurricane Property Insurance Claim Alternate Dispute Resolution
180 Program disclosure form to each insured who has filed a covered
181 residential property insurance claim for property that is
182 located within the geographic area of the named windstorm that
183 is subject to the declared state of emergency. An insurer shall
184 send the disclosure notice before the initial investigation by
185 the United States Postal Service, e-mail, or hand delivery.

186 (8) CONSTRUCTION AND APPLICABILITY.—

187 (a) This section does not provide an insured with a civil
188 cause of action.

189 (b) This section does not apply to commercial insurance
190 policies, private passenger motor vehicle insurance, or disputes
191 relating to liability coverages in policies of property
192 insurance.

193 (9) RULEMAKING.—The Department of Financial Services shall
194 adopt rules to implement this section.

195 Section 2. This act shall take effect July 1, 2023.