

26 | release specified information to insureds upon
 27 | request; amending s. 627.701, F.S.; prohibiting
 28 | property insurers from using certain defenses as
 29 | claims denials; amending s. 627.715, F.S.; requiring
 30 | insurance agents to advise insurance applicants of
 31 | flood risk; amending s. 627.7152, F.S.; revising
 32 | requirements for risk assignment agreements; creating
 33 | s. 627.7155, F.S.; providing duties of the Office of
 34 | Insurance Regulation; requiring the Department of
 35 | Financial Services to adopt rules regarding
 36 | allegations of insurance fraud made by insurers or
 37 | their employees or contractors; providing requirements
 38 | for such rules; providing fines; requiring the Office
 39 | of Program Policy Analysis and Government
 40 | Accountability to conduct a study of effectiveness of
 41 | the property insurance mediation program; providing
 42 | requirements for the study; requiring a report to the
 43 | Legislature; amending chapter 2022-268, Laws of
 44 | Florida; increasing an appropriation to the My Safe
 45 | Florida Home Program; providing an effective date.

46 |
 47 | Be It Enacted by the Legislature of the State of Florida:

48 |
 49 | Section 1. Section 11.91, Florida Statutes, is created to
 50 | read:

51 11.91 Property Insurance Commission.—
 52 (1) (a) There is created the Property Insurance Commission,
 53 which shall consist of six members:
 54 1. Two members appointed by the President of the Senate.
 55 2. One member appointed by the Minority Leader of the
 56 Senate.
 57 3. Two members appointed by the Speaker of the House of
 58 Representatives.
 59 4. One member appointed by the House Minority Leader.
 60 (b) Each member shall serve at the pleasure of the officer
 61 who appointed the member. A vacancy on the commission shall be
 62 filled in the same manner as the original appointment. From
 63 November of each odd-numbered year through October of each even-
 64 numbered year, the chair of the commission shall be appointed by
 65 the President of the Senate, and the vice chair of the
 66 commission shall be appointed by the Speaker of the House of
 67 Representatives. From November of each even-numbered year
 68 through October of each odd-numbered year, the chair of the
 69 commission shall be appointed by the Speaker of the House of
 70 Representatives, and the vice chair of the commission shall be
 71 appointed by the President of the Senate. The terms of members
 72 shall be for 2 years and shall run from the organization of one
 73 Legislature to the organization of the next Legislature.
 74 (2) The commission shall be governed by joint rules of the
 75 Senate and the House of Representatives, which shall remain in

76 effect until repealed or amended by concurrent resolution.

77 (3) The commission may conduct its meetings through
 78 teleconferences or other similar means.

79 (4) The commission shall be staffed by legislative staff
 80 members, as assigned by the President of the Senate and the
 81 Speaker of the House of Representatives.

82 (5) The commission has the power and duty to:

83 (a) Review and evaluate the insurance marketplace and
 84 studies of the various insurance markets.

85 (b) Review and comment on market data produced by the
 86 Office of Insurance Regulation.

87 (c) Review and comment on the setting of reserve
 88 requirements for insurers.

89 (d) Exercise all other powers and perform any other duties
 90 prescribed by the Legislature.

91 Section 2. Paragraphs (a) and (d) of subsection (3) of
 92 section 20.121, Florida Statutes, are amended to read:

93 20.121 Department of Financial Services.—There is created
 94 a Department of Financial Services.

95 (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,
 96 2003, there is created within the Department of Financial
 97 Services the Financial Services Commission, composed of the
 98 Governor, the Attorney General, the Chief Financial Officer, and
 99 the Commissioner of Agriculture, which shall for purposes of
 100 this section be referred to as the commission. Commission

HB 9A

2022A

101 members shall serve as agency head of the Financial Services
102 Commission. The commission shall be a separate budget entity and
103 shall be exempt from the provisions of s. 20.052. Commission
104 action shall be by majority vote consisting of at least three
105 affirmative votes. The commission shall not be subject to
106 control, supervision, or direction by the Department of
107 Financial Services in any manner, including purchasing,
108 transactions involving real or personal property, personnel, or
109 budgetary matters.

110 (a) Structure.—The major structural unit of the commission
111 is the office. Each office shall be headed by a director. The
112 following offices are established:

113 1. The Office of Insurance Regulation, which shall be
114 responsible for all activities concerning insurers and other
115 risk bearing entities, including licensing, rates, policy forms,
116 market conduct, claims, issuance of certificates of authority,
117 solvency, viatical settlements, premium financing, and
118 administrative supervision, as provided under the insurance code
119 or chapter 636. The head of the Office of Insurance Regulation
120 is the Director of the Office of Insurance Regulation, who may
121 also be known as the Commissioner of Insurance Regulation.
122 Beginning with the General Election in 2024, the Commissioner of
123 Insurance Regulation shall be elected. The commissioner elected
124 in 2024 shall serve a term of 2 years; thereafter, the
125 commissioner shall serve a term of 4 years.

HB 9A

2022A

126 2. The Office of Financial Regulation, which shall be
127 responsible for all activities of the Financial Services
128 Commission relating to the regulation of banks, credit unions,
129 other financial institutions, finance companies, and the
130 securities industry. The head of the office is the Director of
131 the Office of Financial Regulation, who may also be known as the
132 Commissioner of Financial Regulation. The Office of Financial
133 Regulation shall include a Bureau of Financial Investigations,
134 which shall function as a criminal justice agency for purposes
135 of ss. 943.045-943.08 and shall have a separate budget. The
136 bureau may conduct investigations within or outside this state
137 as the bureau deems necessary to aid in the enforcement of this
138 section. If, during an investigation, the office has reason to
139 believe that any criminal law of this state has or may have been
140 violated, the office shall refer any records tending to show
141 such violation to state or federal law enforcement or
142 prosecutorial agencies and shall provide investigative
143 assistance to those agencies as required.

144 (d) Appointment and qualifications of directors.—The
145 commission shall appoint or remove each director, other than the
146 Commissioner of Insurance Regulation, by a majority vote
147 consisting of at least three affirmative votes, with both the
148 Governor and the Chief Financial Officer on the prevailing side.
149 The minimum qualifications of the directors, other than the
150 Commissioner of Insurance Regulation, are as follows:

151 1. Prior to appointment as director, the Director of the
 152 Office of Insurance Regulation must have had, within the
 153 previous 10 years, at least 5 years of responsible private
 154 sector experience working full time in areas within the scope of
 155 the subject matter jurisdiction of the Office of Insurance
 156 Regulation or at least 5 years of experience as a senior
 157 examiner or other senior employee of a state or federal agency
 158 having regulatory responsibility over insurers or insurance
 159 agencies.

160 2. Prior to appointment as director, the Director of the
 161 Office of Financial Regulation must have had, within the
 162 previous 10 years, at least 5 years of responsible private
 163 sector experience working full time in areas within the subject
 164 matter jurisdiction of the Office of Financial Regulation or at
 165 least 5 years of experience as a senior examiner or other senior
 166 employee of a state or federal agency having regulatory
 167 responsibility over financial institutions, finance companies,
 168 or securities companies.

169 Section 3. Section 112.3134, Florida Statutes, is created
 170 to read:

171 112.3134 Commissioner of Insurance Regulation; Office of
 172 Insurance Regulation.—

173 (1) A person who has served as Commissioner of Insurance
 174 Regulation may not:

175 (a) Personally represent another person or entity for

176 compensation before the Office of Insurance Regulation; or

177 (b) Serve as an employee or contractor of an entity
 178 regulated by the Office of Insurance Regulation

179
 180 for a period of 7 years after vacating that office.

181 (2) A person who violates subsection (1) may be punished
 182 by:

183 (a) Public censure and reprimand;

184 (b) A civil penalty not to exceed \$10,000; or

185 (c) Forfeiture of any pecuniary benefits received for
 186 conduct that violates this section. The amount of the pecuniary
 187 benefits must be paid to the General Revenue Fund.

188 (3) The Attorney General and Chief Financial Officer are
 189 independently authorized to collect any penalty imposed under
 190 this section.

191 Section 4. Paragraph (a) of subsection (2) of section
 192 215.5586, Florida Statutes, is amended to read:

193 215.5586 My Safe Florida Home Program.—There is
 194 established within the Department of Financial Services the My
 195 Safe Florida Home Program. The department shall provide fiscal
 196 accountability, contract management, and strategic leadership
 197 for the program, consistent with this section. This section does
 198 not create an entitlement for property owners or obligate the
 199 state in any way to fund the inspection or retrofitting of
 200 residential property in this state. Implementation of this

201 program is subject to annual legislative appropriations. It is
 202 the intent of the Legislature that the My Safe Florida Home
 203 Program provide trained and certified inspectors to perform
 204 inspections for owners of site-built, single-family, residential
 205 properties and grants to eligible applicants as funding allows.
 206 The program shall develop and implement a comprehensive and
 207 coordinated approach for hurricane damage mitigation that may
 208 include the following:

209 (2) MITIGATION GRANTS.—Financial grants shall be used to
 210 encourage single-family, site-built, owner-occupied, residential
 211 property owners to retrofit their properties to make them less
 212 vulnerable to hurricane damage.

213 (a) For a homeowner to be eligible for a grant, the
 214 following criteria must be met:

215 1. The homeowner must have been granted a homestead
 216 exemption on the home under chapter 196.

217 2. The home must be a dwelling with an insured value of
 218 \$500,000 or less. Homeowners who are low-income persons, as
 219 defined in s. 420.0004(11), are exempt from this requirement.

220 3. The home must have undergone an acceptable hurricane
 221 mitigation inspection after July 1, 2008.

222 ~~4. The home must be located in the "wind-borne debris~~
 223 ~~region" as that term is defined in the Florida Building Code.~~

224 4.5. The building permit application for initial
 225 construction of the home must have been made before January 1,

226 | 2008.

227 | 6. The homeowner must agree to make his or her home
228 | available for inspection once a mitigation project is completed.

229 |
230 | An application for a grant must contain a signed or
231 | electronically verified statement made under penalty of perjury
232 | that the applicant has submitted only a single application and
233 | must have attached documents demonstrating the applicant meets
234 | the requirements of this paragraph.

235 | Section 5. Subsection (2) of section 494.0026, Florida
236 | Statutes, is amended to read:

237 | 494.0026 Disposition of insurance proceeds.—The following
238 | provisions apply to mortgage loans held by a mortgagee or
239 | assignee that is subject to part II or part III of this chapter.

240 | (2) (a) Insurance proceeds received by a mortgagee or
241 | assignee that relate to compensation for damage to property or
242 | contents insurance coverage in which the mortgagee or assignee
243 | has a security interest must be promptly deposited into a
244 | segregated account of a federally insured financial institution.

245 | (b) Any interest earned on insurance proceeds received by
246 | a mortgagee or assignee that relate to compensation for damage
247 | to property or contents insurance coverage in which the
248 | mortgagee or assignee has a security interest must be paid to
249 | the insured.

250 |

251 This section may not be construed to prevent an insurance
 252 company from paying the insured directly for additional living
 253 expenses or paying the insured directly for contents insurance
 254 coverage if the mortgagee or assignee does not have a security
 255 interest in the contents.

256 Section 6. Subsection (5) is added to section 624.401,
 257 Florida Statutes, to read:

258 624.401 Certificate of authority required.—

259 (5) (a) A property insurer may not claim insolvency in this
 260 state if the insurer still acts as an insurer, transacts
 261 insurance, or otherwise engages in insurance activities in any
 262 state other than this state, regardless whether or not these
 263 insurance activities are property insurance activities.

264 (b) Effective January 1, 2024, any person who acts as a
 265 property insurer, transacts property insurance, or otherwise
 266 engages in property insurance activities in any state other than
 267 this state may act as an insurer, transact insurance, or
 268 otherwise engage in insurance activities in this state only if
 269 that person does not exclude property insurance from the
 270 person's insurance transactions or activities.

271 Section 7. Subsection (9) is added to section 627.0629,
 272 Florida Statutes, to read:

273 627.0629 Residential property insurance; rate filings.—

274 (9) An insurer must release to an insured all information
 275 relating to an inspection or an underwriting report upon the

HB 9A

2022A

276 insured's request.

277 Section 8. Subsection (11) is added to section 627.701,
278 Florida Statutes, to read:

279 627.701 Liability of insureds; coinsurance; deductibles;
280 prohibited denials of claims.—

281 (11) A property insurer that issues or renews an insurance
282 policy or contract covering real property in this state on or
283 after January 1, 2024, may not use a property's preexisting
284 condition, a date of loss that predates the date of a claim, or
285 faulty installation or workmanship as a defense for denying a
286 claim.

287 Section 9. Subsection (8) of section 627.715, Florida
288 Statutes, is amended to read:

289 627.715 Flood insurance.—An authorized insurer may issue
290 an insurance policy, contract, or endorsement providing personal
291 lines residential coverage for the peril of flood or excess
292 coverage for the peril of flood on any structure or the contents
293 of personal property contained therein, subject to this section.
294 This section does not apply to commercial lines residential or
295 commercial lines nonresidential coverage for the peril of flood.
296 An insurer may issue flood insurance policies, contracts,
297 endorsements, or excess coverage on a standard, preferred,
298 customized, flexible, or supplemental basis.

299 (8) (a) An agent must provide a written notice to be signed
300 by every ~~the~~ applicant advising the applicant of flood risk.

301 (b) If ~~before~~ the agent places flood insurance coverage
 302 with an admitted or surplus lines insurer for a property
 303 receiving flood insurance under the National Flood Insurance
 304 Program, the agent must also provide to the applicant, before
 305 placing new flood coverage for the property, a written.~~the~~
 306 notice notifying ~~must notify~~ the applicant that, if the
 307 applicant discontinues coverage under the National Flood
 308 Insurance Program which is provided at a subsidized rate, the
 309 full risk rate for flood insurance may apply to the property if
 310 the applicant later seeks to reinstate coverage under the
 311 program.

312 Section 10. Paragraph (a) of subsection (2) of section
 313 627.7152, Florida Statutes, is amended to read:

314 627.7152 Assignment agreements.—

315 (2) (a) An assignment agreement must:

316 1. Be in writing and executed by and between the assignor
 317 and the assignee.

318 2. Contain a provision that allows the assignor to rescind
 319 the assignment agreement without a penalty or fee by submitting
 320 a written notice of rescission signed by the assignor to the
 321 assignee within 14 days after the execution of the agreement, at
 322 least 30 days after the date work on the property is scheduled
 323 to commence if the assignee has not substantially performed, or
 324 at least 30 days after the execution of the agreement if the
 325 agreement does not contain a commencement date and the assignee

326 | has not begun substantial work on the property.

327 | 3. Contain a provision requiring the assignee to provide a
 328 | copy of the executed assignment agreement to the insurer within
 329 | 3 business days after the date on which the assignment agreement
 330 | is executed or the date on which work begins, whichever is
 331 | earlier. Delivery of the copy of the assignment agreement to the
 332 | insurer may be made:

333 | a. By personal service, overnight delivery, or electronic
 334 | transmission, with evidence of delivery in the form of a receipt
 335 | or other paper or electronic acknowledgment by the insurer; or

336 | b. To the location designated for receipt of such
 337 | agreements as specified in the policy.

338 | 4. Contain a written, itemized, per-unit cost estimate of
 339 | the services to be performed by the assignee.

340 | 5. Relate only to work to be performed by the assignee for
 341 | services to protect, repair, restore, or replace a dwelling or
 342 | structure or to mitigate against further damage to such
 343 | property.

344 | 6. Contain the following notice in 18-point uppercase and
 345 | boldfaced type:

346 | YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR
 347 | INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN
 348 | LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS
 349 | DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS
 350 | AGREEMENT WITHOUT PENALTY WITHIN 14 DAYS AFTER THE DATE THIS

351 AGREEMENT IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
352 THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE HAS NOT
353 SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS AFTER THE EXECUTION
354 OF THE AGREEMENT IF THE AGREEMENT DOES NOT CONTAIN A
355 COMMENCEMENT DATE AND THE ASSIGNEE HAS NOT BEGUN SUBSTANTIAL
356 WORK ON THE PROPERTY. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF
357 ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED.
358 THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE
359 DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

360 7. Contain a notice in 18-point uppercase and boldfaced
361 type disclosing that the assignee is prohibited from taking any
362 legal action without the assignor's permission, including, but
363 not limited to, making a presuit settlement demand or presuit
364 settlement offer.

365 ~~8.7.~~ Contain a provision requiring the assignee to
366 indemnify and hold harmless the assignor from all liabilities,
367 damages, losses, and costs, including, but not limited to,
368 attorney fees.

369 Section 11. Section 627.7155, Florida Statutes, is created
370 to read:

371 627.7155 Office rulemaking.—By January 1, 2024, the office
372 must adopt rules:

373 (1) Requiring that, each time a legislation creating or
374 amending law to reform property insurance takes effect, property
375 insurers must offer mandatory premium rate reduction for their

376 insureds.

377 (2) Ensuring that insurance fraud committed by any person
 378 can be easily reported, investigated, and, if necessary,
 379 prosecuted.

380 (3) Redetermining flood zones statewide for use when
 381 assigning flood risks.

382 Section 12. The Department of Financial Services shall, no
 383 later than October 1, 2023, adopt rules regarding any allegation
 384 made by an insurer or an employee or contractor thereof of
 385 insurance fraud in violation of any provision listed in s.
 386 626.9892(2), Florida Statutes. Such rules must include
 387 requirements that:

388 (1) The Division of Investigative and Forensic Services in
 389 the Department of Financial Services must be informed by an
 390 insurer of any such allegation.

391 (2) The department shall promptly investigate such
 392 allegations.

393 (3) If the department determines that there was no fraud,
 394 the insurer alleging such fraud may be appropriately sanctioned
 395 by a fine of up to \$100,000.

396 (4) All documents relating to such sanctions shall be
 397 public records.

398 Section 13. (1) The Office of Program Policy Analysis and
 399 Government Accountability (OPPAGA) shall conduct a study to
 400 evaluate the effectiveness of the property insurance mediation

401 program provided pursuant to s. 627.7015, Florida Statutes. The
 402 study's scope must include, but need not be limited to:

403 (a) Improvements in the public's awareness of the program
 404 and the advantages of participation in the program.

405 (b) Program resource needs.

406 (2) The study must include recommendations for any changes
 407 needed to improve the efficiency of the program to maximize its
 408 usefulness as an alternative to litigation.

409 (3) In conducting the study, OPPAGA shall consult with the
 410 Department of Financial Services, insurers, and organizations
 411 representing insurance consumers.

412 (4) OPPAGA shall submit a report on its findings to the
 413 President of the Senate and the Speaker of the House of
 414 Representatives by December 1, 2023.

415 Section 14. Section 4 of chapter 2022-268, Laws of
 416 Florida, is amended to read:

417 Section 4. (1) For the 2022-2023 fiscal year, the sum of
 418 \$300 ~~\$150~~ million in nonrecurring funds is appropriated from the
 419 General Revenue Fund to the Department of Financial Services for
 420 the My Safe Florida Home Program. The funds shall be placed in
 421 reserve. The department shall submit budget amendments
 422 requesting release of the funds held in reserve pursuant to
 423 chapter 216, Florida Statutes. The budget amendments shall
 424 include a detailed spending plan.

425 (2) The funds shall be allocated as follows:

HB 9A

2022A

426 (a) Fifty ~~Twenty-five~~ million dollars for hurricane
427 mitigation inspections.

428 (b) Two hundred thirty ~~One hundred fifteen~~ million dollars
429 for mitigation grants.

430 (c) Eight ~~Four~~ million dollars for education and consumer
431 awareness.

432 (d) Two ~~One~~ million dollars for public outreach for
433 contractors and real estate brokers and sales associates.

434 (e) Ten ~~Five~~ million dollars for administrative costs.

435 (3) Any unexpended balance of funds from this
436 appropriation remaining on June 30, 2023, shall revert and is
437 appropriated to the Department of Financial Services for the
438 2023-2024 fiscal year for the same purpose.

439 (4) The department may adopt emergency rules pursuant to
440 s. 120.54, Florida Statutes, at any time, as are necessary to
441 implement this section and s. 215.5586, Florida Statutes, as
442 amended by this act. The Legislature finds that such emergency
443 rulemaking authority is necessary to address a critical need in
444 the state's problematic property insurance market. The
445 Legislature further finds that the uniquely short timeframe
446 needed to effectively implement this section for the 2022-2023
447 fiscal year requires that the department adopt rules as quickly
448 as practicable. Therefore, in adopting such emergency rules, the
449 department need not make the findings required by s.
450 120.54(4) (a), Florida Statutes. Emergency rules adopted under

HB 9A

2022A

451 | this section are exempt from s. 120.54(4)(c), Florida Statutes,
452 | and shall remain in effect until replaced by rules adopted under
453 | the nonemergency rulemaking procedures of chapter 120, Florida
454 | Statutes, which must occur no later than July 1, 2023.

455 | (5) This section shall expire on October 1, 2024.

456 | Section 15. This act shall take effect July 1, 2023.