

By Senator Grall

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1 A bill to be entitled
2 An act relating to insurance; amending s. 624.155,
3 F.S.; providing construction relating to the recovery
4 of damages under the common-law remedy of bad faith
5 against insurers; amending s. 624.3161, F.S.;
6 providing that specified property insurers shall,
7 rather than may, be subject to an additional market
8 conduct examination after a hurricane; amending s.
9 624.4055, F.S.; revising a prohibition against the
10 continued writing of private passenger automobile
11 insurance by certain insurers; amending ss. 624.407
12 and 624.408, F.S.; revising minimum surplus
13 requirements for certain residential property
14 insurers; amending s. 624.424, F.S.; revising
15 information required to be reported by property
16 insurers in certain supplemental reports; specifying
17 requirements for the Office of Insurance Regulation in
18 publicly reporting certain data; providing
19 construction; amending s. 626.9201, F.S.; prohibiting
20 insurers providing homeowners' insurance or commercial
21 property insurance from canceling, nonrenewing, or
22 terminating a policy during a pending claim except
23 under certain circumstances; amending s. 626.9541,
24 F.S.; adding unfair claim settlement practices that
25 constitute unfair methods of competition or unfair or
26 deceptive acts or practices; prohibiting directors or
27 officers of insolvent or impaired insurers from
28 authorizing or permitting the payment of certain
29 bonuses; defining the term "bonus"; providing a

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30 criminal penalty; amending s. 627.0613, F.S.;

31 requiring the consumer advocate, in conjunction with

32 the Department of Financial Services and the office,

33 to annually prepare and make publicly available a

34 report relating to insurer rate increases; amending s.

35 627.351, F.S.; deleting a requirement that a Citizens

36 Property Insurance Corporation policyholder making a

37 claim for water damage has the burden of proving that

38 the damage was not caused by flooding; amending s.

39 627.35191, F.S.; requiring the corporation to provide

40 to the Legislature and the Financial Services

41 Commission an annual supplemental report relating to

42 closed claims; specifying requirements for the report;

43 amending s. 627.4133, F.S.; prohibiting insurers

44 providing homeowners' insurance from canceling,

45 nonrenewing, or terminating a policy during a pending

46 claim except under certain circumstances; amending s.

47 627.420, F.S.; prohibiting certain actions by an

48 insurer issuing a homeowner's insurance binder before

49 closing to a purchaser of residential property;

50 requiring such insurer to perform any required

51 inspections before binding coverage; requiring a

52 seller of a new home purchase to allow access to the

53 property for such inspection before closing; amending

54 s. 627.701, F.S.; providing that if a roof deductible

55 is applied under a personal lines residential property

56 insurance policy, no other deductible may be applied

57 to certain other losses; amending s. 627.7011, F.S.;

58 providing that if a homeowner's insurance policy

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59 provides an option with limited coverage, the insurer
60 must offer a premium with a certain discount or
61 credit; creating s. 627.70111, F.S.; requiring a
62 specified notice period to a homeowner before any
63 inspection of the homeowner's residential property for
64 insurance purposes, except under certain
65 circumstances; amending s. 627.70131, F.S.; providing
66 that repeated violations of certain prompt payment
67 requirements are an unfair method of competition and
68 an unfair or deceptive act or practice; deleting a
69 provision providing that failure to comply with
70 certain provisions does not form the sole basis for a
71 private cause of action; amending s. 627.70132, F.S.;
72 providing that certain timeframes to provide notice of
73 a property insurance claim are tolled during the
74 period of active duty for an insured in active
75 military service; amending s. 627.70152, F.S.;
76 requiring a property insurer to provide a certain
77 response to a presuit notice to the department;
78 deleting the authority for an insurer to require the
79 claimant to participate in appraisal; providing that a
80 policy must require a claimant's consent; specifying a
81 limitation and restriction on invoking appraisal;
82 providing that a certain notice and response are
83 admissible as evidence in certain proceedings;
84 requiring that any alternative dispute resolution
85 process be authorized by statute; creating s.
86 627.70155, F.S.; specifying restrictions on property
87 insurance policies relating to venue and controlling

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88 law provisions; amending s. 627.702, F.S.; providing
89 that certain total losses under the valued policy law
90 may not be subject to any requirement for the insured
91 to participate in appraisal; amending s. 768.79, F.S.;
92 revising conditions for making, and parties who may
93 make, certain joint offers of judgment or settlement;
94 providing an effective date.

95

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

97

98 Section 1. Subsection (8) of section 624.155, Florida
99 Statutes, is amended to read:

100 624.155 Civil remedy.—

101 (8) The civil remedy specified in this section does not
102 preempt any other remedy or cause of action provided for
103 pursuant to any other statute or pursuant to the common law of
104 this state. Any person may obtain a judgment under either the
105 common-law remedy of bad faith or this statutory remedy, but
106 shall not be entitled to a judgment under both remedies. This
107 section shall not be construed to create a common-law cause of
108 action. The damages recoverable pursuant to this section shall
109 include those damages which are a reasonably foreseeable result
110 of a specified violation of this section by the authorized
111 insurer and may include an award or judgment in an amount that
112 exceeds the policy limits. This section does not limit or
113 prohibit the recovery of any damages under the common-law remedy
114 of bad faith, and extracontractual, consequential damages may be
115 recovered under such remedy.

116 Section 2. Subsection (7) of section 624.3161, Florida

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117 Statutes, is amended to read:

118 624.3161 Market conduct examinations.—

119 (7) Notwithstanding subsection (1), any authorized insurer
120 transacting property insurance business in this state shall ~~may~~
121 be subject to an additional market conduct examination after a
122 hurricane if the insurer:

123 (a) Is among the top 20 percent of insurers based upon a
124 calculation of the ratio of hurricane-related property insurance
125 claims filed to the number of property insurance policies in
126 force;

127 (b) Is among the top 20 percent of insurers based upon a
128 calculation of the ratio of consumer complaints made to the
129 department to hurricane-related claims;

130 (c) Has made significant payments to its managing general
131 agent since the hurricane; or

132 (d) Is identified by the office as necessitating a market
133 conduct exam for any other reason.

134

135 All relevant criteria under this section and s. 624.316 shall be
136 applied to the market conduct examination under this subsection.
137 Such an examination must be initiated within 18 months after the
138 landfall of a hurricane that results in an executive order or a
139 state of emergency issued by the Governor. An examination of an
140 insurer under this subsection must also include an examination
141 of its managing general agent as if it were the insurer.

142 Section 3. Section 624.4055, Florida Statutes, is amended
143 to read:

144 624.4055 Restrictions on existing private passenger
145 automobile insurance.—An ~~No~~ insurer writing private passenger

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146 automobile insurance in this state may not continue to write
147 such insurance if the insurer:

148 (1) Writes homeowners' insurance in another state but not
149 in this state; or

150 (2) Writes homeowners' insurance in this state, but the
151 number of homeowners' insurance policies that it writes or
152 renews in this state in any calendar year is less than 5 percent
153 of the total number of policies written or renewed by the
154 insurer for all kinds of insurance transacted in this state by
155 the insurer, unless the insurer writing private passenger
156 automobile insurance in this state is affiliated with an insurer
157 writing homeowners' insurance in this state.

158 Section 4. Subsection (1) of section 624.407, Florida
159 Statutes, is amended to read:

160 624.407 Surplus required; new insurers.—

161 (1) To receive authority to transact any one kind or
162 combinations of kinds of insurance, as defined in part V of this
163 chapter, an insurer applying for its original certificate of
164 authority in this state shall possess surplus as to
165 policyholders at least the greater of:

166 (a) For a property and casualty insurer, \$5 million, or
167 \$2.5 million for any other insurer;

168 (b) For life insurers, 4 percent of the insurer's total
169 liabilities;

170 (c) For life and health insurers, 4 percent of the
171 insurer's total liabilities, plus 6 percent of the insurer's
172 liabilities relative to health insurance;

173 (d) For all insurers other than life insurers and life and
174 health insurers, 10 percent of the insurer's total liabilities;

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175 (e) Notwithstanding paragraph (a) or paragraph (d), for a
176 domestic insurer that transacts residential property insurance
177 and is:

178 1. Not a wholly owned subsidiary of an insurer domiciled in
179 any other state, \$30 ~~\$15~~ million.

180 2. A wholly owned subsidiary of an insurer domiciled in any
181 other state, \$50 million;

182 (f) Notwithstanding paragraphs (a), (d), and (e), for a
183 domestic insurer that only transacts limited sinkhole coverage
184 insurance for personal lines residential property pursuant to s.
185 627.7151, \$7.5 million; or

186 (g) Notwithstanding paragraphs (a), (d), and (e), for an
187 insurer that only transacts residential property insurance in
188 the form of renter's insurance, tenant's coverage, cooperative
189 unit owner insurance, or any combination thereof, \$10 million.

190 Section 5. Paragraphs (f) and (g) of subsection (1) of
191 section 624.408, Florida Statutes, are amended to read:

192 624.408 Surplus required; current insurers.—

193 (1) To maintain a certificate of authority to transact any
194 one kind or combinations of kinds of insurance, as defined in
195 part V of this chapter, an insurer in this state must at all
196 times maintain surplus as to policyholders at least the greater
197 of:

198 (f) For residential property insurers not holding a
199 certificate of authority before July 1, 2011, \$30 ~~\$15~~ million.

200 (g) For residential property insurers holding a certificate
201 of authority before July 1, 2011, and until June 30, 2016, \$5
202 million; on or after July 1, 2016, and until June 30, 2021, \$10
203 million; on or after July 1, 2021, and until June 30, 2023, \$15

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204 million; on or after July 1, 2023, \$30 million.

205
206 The office may reduce the surplus requirement in paragraphs (f)
207 and (g) if the insurer is not writing new business, has premiums
208 in force of less than \$1 million per year in residential
209 property insurance, or is a mutual insurance company.

210 Section 6. Paragraph (a) of subsection (10) and subsection
211 (11) of section 624.424, Florida Statutes, are amended to read:

212 624.424 Annual statement and other information.-

213 (10) (a) Each insurer or insurer group doing business in
214 this state shall file on a quarterly basis in conjunction with
215 financial reports required by paragraph (1) (a) a supplemental
216 report on an individual and group basis on a form prescribed by
217 the commission with information on personal lines and commercial
218 lines residential property insurance policies in this state. The
219 supplemental report shall include separate information for
220 personal lines property policies and for commercial lines
221 property policies and totals for each item specified, including
222 premiums written for each of the property lines of business as
223 described in ss. 215.555(2) (c) and 627.351(6) (a). The report
224 shall include the following information for each county on a
225 monthly basis:

226 1. Total number of policies in force at the end of each
227 month.

228 2. Total number of policies canceled.

229 3. Total number of policies nonrenewed.

230 4. Number of policies canceled due to hurricane risk.

231 5. Number of policies nonrenewed due to hurricane risk.

232 6. Number of new policies written.

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233 7. Total dollar value of structure exposure under policies
 234 that include wind coverage.

235 8. Number of policies that exclude wind coverage.

236 9. Number of claims open each month.

237 10. Number of claims closed each month.

238 11. Number of claims pending each month.

239 12. Number of claims in which either the insurer or insured
 240 invoked any form of alternative dispute resolution;7 which party
 241 invoked alternative dispute resolution; the pre-alternative
 242 dispute resolution payment made by the insurer, if any; the
 243 post-alternative dispute resolution payment made by the insurer,
 244 if any; and the ~~specifying which~~ form of alternative dispute
 245 resolution ~~was~~ used.

246 (11) Beginning January 1, 2022, each authorized insurer or
 247 insurer group issuing personal lines or commercial lines
 248 residential property insurance policies in this state shall file
 249 with the office on an annual basis in conjunction with the
 250 statements required by paragraph (1)(a) a supplemental report on
 251 an individual and group basis for closed claims. The office
 252 shall compile the data for each insurer or insurer group on a
 253 statewide basis and make such data publicly available on its
 254 website monthly. Such data, when aggregated on a statewide basis
 255 as to an individual insurer or insurer group, is not a trade
 256 secret as defined in s. 688.002 or s. 812.081(1) and is not
 257 subject to the public records exemption for trade secrets
 258 provided in s. 119.0715. By January 1, 2024, the office shall
 259 also make publicly available the data required to be reported by
 260 each insurer or insurer group for the 2021 calendar year, the
 261 2022 calendar year, and the 2023 calendar year through July 1,

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262 2023, and collected by the office during the 2022 calendar year
263 and subsequent years. The report must be on a form prescribed by
264 the commission and must include the following information for
265 each claim closed, excluding liability only claims, within the
266 reporting period in this state:

- 267 (a) The unique claim identification number.
268 (b) The type of policy.
269 (c) The zip code of the property where the claim occurred.
270 (d) The county where the claim occurred.
271 (e) The date of loss.
272 (f) The peril or type of loss, including information about:
273 1. The types of vendors used for mitigation, repair, or
274 replacement; and
275 2. The names of vendors used, if known.
276 (g) The date the claim was reported to insurer.
277 (h) The initial date the claim was closed, including
278 information about whether the claim was closed with or without
279 payment.
280 (i) The date the claim was most recently reopened, if
281 applicable.
282 (j) The date a supplemental claim was filed, if applicable.
283 (k) The date the claim was most recently closed, if
284 different from the initial date the claim was closed.
285 (l) The name of the public adjuster on the claim, if any.
286 (m) The Florida Bar number and name of the attorney for the
287 claimant, if any.
288 (n) The total indemnity paid by the insurer.
289 (o) The total loss adjustment expenses paid by the insurer.
290 (p) The amounts, listed separately, ~~amount~~ paid for any

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291 claimant's and insurer's attorney fees, and specifying the
292 amount incurred during prelitigation or appraisal and the amount
293 incurred during arbitration or litigation, as applicable ~~if any.~~

294 (q) The amounts, listed separately, ~~amount~~ paid in costs
295 for claimant's and insurer's attorney ~~attorney's~~ expenses,
296 including, but not limited to, expert witness fees.

297 (r) The contingency risk multiplier, if any, that the
298 claimant's attorney requested to be applied in calculating the
299 attorney fees awarded to the claimant's attorney.

300 (s) The contingency risk multiplier, if any, that a court
301 applied in calculating the attorney fees awarded to the
302 claimant's attorney.

303 (t) Data submitted by each claimant and each insurer or
304 insurer group pursuant to s. 627.70152(3) and (4) to the
305 department.

306 (u) Any other information deemed necessary by the
307 commission to provide the office with the ability to track
308 litigation and claims trends occurring in the property market.

309 Section 7. Subsection (4) is added to section 626.9201,
310 Florida Statutes, to read:

311 626.9201 Notice of cancellation or nonrenewal.—

312 (4) Notwithstanding this section or any other law to the
313 contrary, an insurer providing homeowners' insurance or
314 commercial property insurance may not cancel, nonrenew, or
315 terminate a policy during a pending claim, except for nonpayment
316 of premium.

317 Section 8. Paragraphs (i), (o), and (w) of subsection (1)
318 of section 626.9541, Florida Statutes, are amended to read:

319 626.9541 Unfair methods of competition and unfair or

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320 deceptive acts or practices defined.—

321 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
322 ACTS.—The following are defined as unfair methods of competition
323 and unfair or deceptive acts or practices:

324 (i) *Unfair claim settlement practices.*—

325 1. Attempting to settle claims on the basis of an
326 application, when serving as a binder or intended to become a
327 part of the policy, or any other material document which was
328 altered without notice to, or knowledge or consent of, the
329 insured;

330 2. A material misrepresentation made to an insured or any
331 other person having an interest in the proceeds payable under
332 such contract or policy, for the purpose and with the intent of
333 effecting settlement of such claims, loss, or damage under such
334 contract or policy on less favorable terms than those provided
335 in, and contemplated by, such contract or policy;

336 3. Committing or performing with such frequency as to
337 indicate a general business practice any of the following:

338 a. Failing to adopt and implement standards for the proper
339 investigation of claims;

340 b. Misrepresenting pertinent facts or insurance policy
341 provisions relating to coverages at issue;

342 c. Failing to acknowledge and act promptly upon
343 communications with respect to claims;

344 d. Denying claims without conducting reasonable
345 investigations based upon available information;

346 e. Failing to affirm or deny full or partial coverage of
347 claims, and, as to partial coverage, the dollar amount or extent
348 of coverage, or failing to provide a written statement that the

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349 claim is being investigated, upon the written request of the
350 insured within 30 days after proof-of-loss statements have been
351 completed;

352 f. Failing to promptly provide a reasonable explanation in
353 writing to the insured of the basis in the insurance policy, in
354 relation to the facts or applicable law, for denial of a claim
355 or for the offer of a compromise settlement;

356 g. Failing to promptly notify the insured of any additional
357 information necessary for the processing of a claim;

358 h. Failing to clearly explain the nature of the requested
359 information and the reasons why such information is necessary;

360 ~~or~~

361 i. Failing to pay personal injury protection insurance
362 claims within the time periods required by s. 627.736(4)(b). The
363 office may order the insurer to pay restitution to a
364 policyholder, medical provider, or other claimant, including
365 interest at a rate consistent with the amount set forth in s.
366 55.03(1), for the time period within which an insurer fails to
367 pay claims as required by law. Restitution is in addition to any
368 other penalties allowed by law, including, but not limited to,
369 the suspension of the insurer's certificate of authority; ~~or~~

370 j. Compelling insureds to institute litigation to recover
371 amounts due under an insurance policy by offering substantially
372 less than the amounts ultimately recovered in actions brought by
373 such insureds;

374 k. Altering a field adjuster's initial estimate, report,
375 photographs, or written comments regarding photographs or
376 observations of an insured risk without the express written
377 approval of the adjuster obtained within 5 days after the

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378 alteration which clearly explains in detail the nature and
 379 extent of the changes;

380 1. Failing to provide an insured with a complete,
 381 unredacted, and unaltered copy of a field adjuster's initial
 382 report, estimate, and photographs within 10 business days after
 383 receipt of such materials; or

384 m. Failing to provide an insured with a complete,
 385 unredacted, and unaltered copy of any report or estimate
 386 obtained from an engineer, an environmental consultant, a
 387 contractor, or another specialist retained by the insurer to
 388 investigate the claim within 10 business days after receipt of
 389 such report or estimate;

390 4. Failing to pay undisputed amounts of partial or full
 391 benefits owed under first-party property insurance policies
 392 within 60 days after an insurer receives notice of a residential
 393 property insurance claim, determines the amounts of partial or
 394 full benefits, and agrees to coverage, unless payment of the
 395 undisputed benefits is prevented by factors beyond the control
 396 of the insurer as defined in s. 627.70131(5);

397 5. Repeatedly failing to comply with s. 627.70131(7) (a); or

398 6. Assigning three or more adjusters within a 6-month
 399 period on a claim arising from a natural disaster, including a
 400 tropical storm or hurricane, which is the subject of a state of
 401 emergency declared by executive order or proclamation of the
 402 Governor pursuant to s. 252.36.

403 *(o) Illegal dealings in premiums; excess or reduced charges*
 404 *for insurance.-*

405 1. Knowingly collecting any sum as a premium or charge for
 406 insurance, which is not then provided, or is not in due course

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407 to be provided, subject to acceptance of the risk by the
408 insurer, by an insurance policy issued by an insurer as
409 permitted by this code.

410 2. Knowingly collecting as a premium or charge for
411 insurance any sum in excess of or less than the premium or
412 charge applicable to such insurance, in accordance with the
413 applicable classifications and rates as filed with and approved
414 by the office, and as specified in the policy; or, in cases when
415 classifications, premiums, or rates are not required by this
416 code to be so filed and approved, premiums and charges collected
417 from a Florida resident in excess of or less than those
418 specified in the policy and as fixed by the insurer.

419 Notwithstanding any other provision of law, this provision shall
420 not be deemed to prohibit the charging and collection, by
421 surplus lines agents licensed under part VIII of this chapter,
422 of the amount of applicable state and federal taxes, or fees as
423 authorized by s. 626.916(4), in addition to the premium required
424 by the insurer or the charging and collection, by licensed
425 agents, of the exact amount of any discount or other such fee
426 charged by a credit card facility in connection with the use of
427 a credit card, as authorized by subparagraph (q)3., in addition
428 to the premium required by the insurer. This subparagraph shall
429 not be construed to prohibit collection of a premium for a
430 universal life or a variable or indeterminate value insurance
431 policy made in accordance with the terms of the contract.

432 3. Imposing or requesting an additional premium for a
433 policy of homeowner's insurance because the insured filed a
434 claim, unless the insurer's file contains information from which
435 the insurer in good faith determines that the insured acted

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436 negligently or intentionally caused damages that led to the
437 claim.

438 ~~4.a.3.a.~~ Imposing or requesting an additional premium for a
439 policy of motor vehicle liability, personal injury protection,
440 medical payment, or collision insurance or any combination
441 thereof or refusing to renew the policy solely because the
442 insured was involved in a motor vehicle accident unless the
443 insurer's file contains information from which the insurer in
444 good faith determines that the insured was substantially at
445 fault in the accident.

446 b. An insurer which imposes and collects such a surcharge
447 or which refuses to renew such policy shall, in conjunction with
448 the notice of premium due or notice of nonrenewal, notify the
449 named insured that he or she is entitled to reimbursement of
450 such amount or renewal of the policy under the conditions listed
451 below and will subsequently reimburse him or her or renew the
452 policy, if the named insured demonstrates that the operator
453 involved in the accident was:

454 (I) Lawfully parked;

455 (II) Reimbursed by, or on behalf of, a person responsible
456 for the accident or has a judgment against such person;

457 (III) Struck in the rear by another vehicle headed in the
458 same direction and was not convicted of a moving traffic
459 violation in connection with the accident;

460 (IV) Hit by a "hit-and-run" driver, if the accident was
461 reported to the proper authorities within 24 hours after
462 discovering the accident;

463 (V) Not convicted of a moving traffic violation in
464 connection with the accident, but the operator of the other

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465 automobile involved in such accident was convicted of a moving
466 traffic violation;

467 (VI) Finally adjudicated not to be liable by a court of
468 competent jurisdiction;

469 (VII) In receipt of a traffic citation which was dismissed
470 or nolle prossed; or

471 (VIII) Not at fault as evidenced by a written statement
472 from the insured establishing facts demonstrating lack of fault
473 which are not rebutted by information in the insurer's file from
474 which the insurer in good faith determines that the insured was
475 substantially at fault.

476 c. In addition to the other provisions of this
477 subparagraph, an insurer may not fail to renew a policy if the
478 insured has had only one accident in which he or she was at
479 fault within the current 3-year period. However, an insurer may
480 nonrenew a policy for reasons other than accidents in accordance
481 with s. 627.728. This subparagraph does not prohibit nonrenewal
482 of a policy under which the insured has had three or more
483 accidents, regardless of fault, during the most recent 3-year
484 period.

485 ~~5.4.~~ Imposing or requesting an additional premium for, or
486 refusing to renew, a policy for motor vehicle insurance solely
487 because the insured committed a noncriminal traffic infraction
488 as described in s. 318.14 unless the infraction is:

489 a. A second infraction committed within an 18-month period,
490 or a third or subsequent infraction committed within a 36-month
491 period.

492 b. A violation of s. 316.183, when such violation is a
493 result of exceeding the lawful speed limit by more than 15 miles

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494 per hour.

495 ~~6.5.~~ Upon the request of the insured, the insurer and
496 licensed agent shall supply to the insured the complete proof of
497 fault or other criteria which justifies the additional charge or
498 cancellation.

499 ~~7.6.~~ No insurer shall impose or request an additional
500 premium for motor vehicle insurance, cancel or refuse to issue a
501 policy, or refuse to renew a policy because the insured or the
502 applicant is a handicapped or physically disabled person, so
503 long as such handicap or physical disability does not
504 substantially impair such person's mechanically assisted driving
505 ability.

506 ~~8.7.~~ No insurer may cancel or otherwise terminate any
507 insurance contract or coverage, or require execution of a
508 consent to rate endorsement, during the stated policy term for
509 the purpose of offering to issue, or issuing, a similar or
510 identical contract or coverage to the same insured with the same
511 exposure at a higher premium rate or continuing an existing
512 contract or coverage with the same exposure at an increased
513 premium.

514 ~~9.8.~~ No insurer may issue a nonrenewal notice on any
515 insurance contract or coverage, or require execution of a
516 consent to rate endorsement, for the purpose of offering to
517 issue, or issuing, a similar or identical contract or coverage
518 to the same insured at a higher premium rate or continuing an
519 existing contract or coverage at an increased premium without
520 meeting any applicable notice requirements.

521 ~~10.9.~~ No insurer shall, with respect to premiums charged
522 for motor vehicle insurance, unfairly discriminate solely on the

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523 basis of age, sex, marital status, or scholastic achievement.

524 ~~11.10.~~ Imposing or requesting an additional premium for
525 motor vehicle comprehensive or uninsured motorist coverage
526 solely because the insured was involved in a motor vehicle
527 accident or was convicted of a moving traffic violation.

528 ~~12.11.~~ No insurer shall cancel or issue a nonrenewal notice
529 on any insurance policy or contract without complying with any
530 applicable cancellation or nonrenewal provision required under
531 the Florida Insurance Code.

532 ~~13.12.~~ No insurer shall impose or request an additional
533 premium, cancel a policy, or issue a nonrenewal notice on any
534 insurance policy or contract because of any traffic infraction
535 when adjudication has been withheld and no points have been
536 assessed pursuant to s. 318.14(9) and (10). However, this
537 subparagraph does not apply to traffic infractions involving
538 accidents in which the insurer has incurred a loss due to the
539 fault of the insured.

540 (w) *Soliciting or accepting new or renewal insurance risks*
541 *or payment of certain bonuses by insolvent or impaired insurer*
542 *prohibited; penalty.—*

543 1. Whether or not delinquency proceedings as to the insurer
544 have been or are to be initiated, but while such insolvency or
545 impairment exists, no director or officer of an insurer, except
546 with the written permission of the office, shall authorize or
547 permit the insurer to solicit or accept new or renewal insurance
548 risks in this state after such director or officer knew, or
549 reasonably should have known, that the insurer was insolvent or
550 impaired.

551 2. Regardless of whether delinquency proceedings as to the

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552 insurer have been or are to be initiated, but while such
553 insolvency or impairment exists, a director or an officer of an
554 impaired insurer may not authorize or permit the insurer to pay
555 a bonus to any officer or director of the insurer.

556 3. As used in this paragraph, the term:

557 a. "Bonus" means a payment, in addition to an officer's or
558 a director's usual compensation, which is in addition to any
559 amounts contracted for or otherwise legally due.

560 b. "Impaired" includes impairment of capital or surplus, as
561 defined in s. 631.011(12) and (13).

562 4.2. Any such director or officer, upon conviction of a
563 violation of this paragraph, ~~commits is guilty of~~ a felony of
564 the third degree, punishable as provided in s. 775.082, s.
565 775.083, or s. 775.084.

566 Section 9. Section 627.0613, Florida Statutes, is amended
567 to read:

568 627.0613 Consumer advocate.—

569 (1) The Chief Financial Officer must appoint a consumer
570 advocate who must represent the general public of the state
571 before the department and the office. The consumer advocate must
572 report directly to the Chief Financial Officer, but is not
573 otherwise under the authority of the department or of any
574 employee of the department. The consumer advocate has such
575 powers as are necessary to carry out the duties of the office of
576 consumer advocate, including, but not limited to, the powers to:

577 (a) ~~(1)~~ Recommend to the department or office, by petition,
578 the commencement of any proceeding or action; appear in any
579 proceeding or action before the department or office; or appear
580 in any proceeding before the Division of Administrative Hearings

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581 relating to subject matter under the jurisdiction of the
582 department or office.

583 (b)~~(2)~~ Have access to and use of all files, records, and
584 data of the department or office.

585 (c)~~(3)~~ Examine rate and form filings submitted to the
586 office, hire consultants as necessary to aid in the review
587 process, and recommend to the department or office any position
588 deemed by the consumer advocate to be in the public interest.

589 (d)~~(4)~~ Prepare an annual budget for presentation to the
590 Legislature by the department, which budget must be adequate to
591 carry out the duties of the office of consumer advocate.

592 (2) By March 1 of each year, and in conjunction with the
593 department and the office, the consumer advocate shall prepare
594 and make publicly available a report analyzing rate filings in
595 the previous year in which a rate increase was requested and
596 approved by the office and summarizing the grounds on which each
597 increase was approved.

598 Section 10. Paragraph (kk) of subsection (6) of section
599 627.351, Florida Statutes, is amended to read:

600 627.351 Insurance risk apportionment plans.—

601 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

602 ~~(kk) A corporation policyholder making a claim for water~~
603 ~~damage against the corporation has the burden of proving that~~
604 ~~the damage was not caused by flooding.~~

605 Section 11. Subsection (3) is added to section 627.35191,
606 Florida Statutes, to read:

607 627.35191 Required reports.—

608 (3) By January 1 of each year, Citizens Property Insurance
609 Corporation shall also provide to the Legislature and the

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610 Financial Services Commission a supplemental report on an
611 individual and group basis for closed claims. The report must be
612 on a form prescribed by the commission and must include the
613 following information for each claim closed, excluding liability
614 only claims, within the reporting period in this state:

- 615 (a) The unique claim identification number.
- 616 (b) The type of policy.
- 617 (c) The zip code of the property where the claim occurred.
- 618 (d) The county where the claim occurred.
- 619 (e) The date of loss.
- 620 (f) The peril or type of loss, including information about:
 - 621 1. The types of vendors used for mitigation, repair, or
622 replacement; and
 - 623 2. The names of vendors used, if known.
- 624 (g) The date the claim was reported to the corporation.
- 625 (h) The initial date the claim was closed, including
626 information about whether the claim was closed with or without
627 payment.
- 628 (i) The date the claim was most recently reopened, if
629 applicable.
- 630 (j) The date a supplemental claim was filed, if applicable.
- 631 (k) The date the claim was most recently closed, if
632 different from the initial date the claim was closed.
- 633 (l) The name of the public adjuster on the claim, if any.
- 634 (m) The Florida Bar number and name of the attorney for the
635 claimant, if any.
- 636 (n) The total indemnity paid by the corporation.
- 637 (o) The total loss adjustment expenses paid by the
638 corporation.

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639 (p) The amounts, listed separately, paid for the claimant's
640 and the corporation's attorney fees, if any, specifying the
641 amount incurred during prelitigation or appraisal and the amount
642 incurred during arbitration or litigation, as applicable.

643 (q) The amounts, listed separately, paid in costs for the
644 claimant's and corporation's attorney's expenses, including, but
645 not limited to, expert witness fees.

646 (r) The contingency risk multiplier, if any, that the
647 claimant's attorney requested to be applied in calculating the
648 attorney fees awarded to the claimant's attorney.

649 (s) The contingency risk multiplier, if any, that a court
650 applied in calculating the attorney fees awarded to the
651 claimant's attorney.

652 (t) Any other information deemed necessary by the
653 commission to provide the corporation with the ability to track
654 litigation and claims trends occurring in the property market.

655 Section 12. Paragraph (f) is added to subsection (2) of
656 section 627.4133, Florida Statutes, to read:

657 627.4133 Notice of cancellation, nonrenewal, or renewal
658 premium.—

659 (2) With respect to any personal lines or commercial
660 residential property insurance policy, including, but not
661 limited to, any homeowner, mobile home owner, farmowner,
662 condominium association, condominium unit owner, apartment
663 building, or other policy covering a residential structure or
664 its contents:

665 (f) Notwithstanding this section or any other law to the
666 contrary, an insurer providing homeowners' insurance may not
667 cancel, nonrenew, or terminate a policy during a pending claim,

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668 except for nonpayment of premium.

669 Section 13. Section 627.420, Florida Statutes, is amended
670 to read:

671 627.420 Binders.—

672 (1) Binders or other contracts for temporary property,
673 marine, casualty, or surety insurance may be made orally or in
674 writing, and shall be deemed to include all the usual terms of
675 the policy as to which the binder was given together with such
676 applicable endorsements as are designated in the binder, except
677 as superseded by the clear and express terms of the binder. No
678 notice of cancellation or notice of nonrenewal otherwise
679 required by this chapter shall be required unless the duration
680 of the binder exceeds 60 days. However, for purposes of ss.
681 627.728 and 627.7281, an insurer shall give 5 days' prior notice
682 of cancellation of a binder, unless the binder is replaced by a
683 policy or another binder in the same or another company.

684 (2) Notwithstanding subsection (1) and any other law, an
685 insurer that issues a homeowners' insurance binder before
686 closing to a purchaser of residential property may not cancel
687 coverage, require additional repairs as a condition of coverage,
688 or increase the policy premium for the first contract year of
689 the homeowner's insurance policy. An insurer must perform any
690 required inspections before binding coverage. For a new home
691 purchase, a seller must allow access to the property for the
692 purpose of such inspection before closing.

693 Section 14. Paragraph (a) of subsection (10) of section
694 627.701, Florida Statutes, is amended to read:

695 627.701 Liability of insureds; coinsurance; deductibles.—

696 (10) (a) Notwithstanding any other provision of law, an

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697 insurer issuing a personal lines residential property insurance
698 policy may include in such policy a separate roof deductible
699 that meets all of the following requirements:

700 1. The insurer has complied with the offer requirements
701 under subsection (7) regarding a deductible applicable to losses
702 from perils other than a hurricane.

703 2. The roof deductible may not exceed the lesser of 2
704 percent of the Coverage A limit of the policy or 50 percent of
705 the cost to replace the roof.

706 3. The premium that a policyholder is charged for the
707 policy includes an actuarially sound credit or premium discount
708 for the roof deductible.

709 4. The roof deductible applies only to a claim adjusted on
710 a replacement cost basis.

711 5. The roof deductible does not apply to any of the
712 following events:

713 a. A total loss to a primary structure in accordance with
714 the valued policy law under s. 627.702 which is caused by a
715 covered peril.

716 b. A roof loss resulting from a hurricane as defined in s.
717 627.4025(2)(c).

718 c. A roof loss resulting from a tree fall or other hazard
719 that damages the roof and punctures the roof deck.

720 d. A roof loss requiring the repair of less than 50 percent
721 of the roof.

722
723 If a roof deductible is applied, no other deductible under the
724 policy may be applied to the loss or to any other loss to the
725 property caused by the same covered peril.

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726 Section 15. Paragraph (c) is added to subsection (1) of
727 section 627.7011, Florida Statutes, to read:

728 627.7011 Homeowners' policies; offer of replacement cost
729 coverage and law and ordinance coverage.—

730 (1) Prior to issuing a homeowner's insurance policy, the
731 insurer must offer each of the following:

732 (c) If a homeowner's insurance policy provides an option
733 with limited coverage, a premium for such reduced coverage which
734 includes a substantial, actuarially sound premium discount or
735 credit for the impact of the reduced coverage.

736
737 An insurer is not required to make the offers required by this
738 subsection with respect to the issuance or renewal of a
739 homeowner's policy that contains the provisions specified in
740 paragraph (b) for law and ordinance coverage limited to 25
741 percent of the dwelling limit, except that the insurer must
742 offer the law and ordinance coverage limited to 50 percent of
743 the dwelling limit. This subsection does not prohibit the offer
744 of a guaranteed replacement cost policy.

745 Section 16. Section 627.70111, Florida Statutes, is created
746 to read:

747 627.70111 Inspections of residential property; required
748 notice to homeowners.—A homeowner must be notified at least 48
749 hours before any inspection of the homeowner's residential
750 property which is required for insurance purposes, unless the
751 homeowner agrees to a shorter timeframe.

752 Section 17. Paragraph (a) of subsection (7) of section
753 627.70131, Florida Statutes, is amended to read:

754 627.70131 Insurer's duty to acknowledge communications

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755 regarding claims; investigation.-

756 (7) (a) Within 90 days after an insurer receives notice of
757 an initial, reopened, or supplemental property insurance claim
758 from a policyholder, the insurer shall pay or deny such claim or
759 a portion of the claim unless the failure to pay is caused by
760 factors beyond the control of the insurer which reasonably
761 prevent such payment. The insurer shall provide a reasonable
762 explanation in writing to the policyholder of the basis in the
763 insurance policy, in relation to the facts or applicable law,
764 for the payment, denial, or partial denial of a claim. If the
765 insurer's claim payment is less than specified in any insurer's
766 detailed estimate of the amount of the loss, the insurer must
767 provide a reasonable explanation in writing of the difference to
768 the policyholder. Any payment of an initial or supplemental
769 claim or portion of such claim made 90 days after the insurer
770 receives notice of the claim, or made more than 15 days after
771 there are no longer factors beyond the control of the insurer
772 which reasonably prevented such payment, whichever is later,
773 bears interest at the rate set forth in s. 55.03. Interest
774 begins to accrue from the date the insurer receives notice of
775 the claim. The provisions of this subsection may not be waived,
776 voided, or nullified by the terms of the insurance policy. If
777 there is a right to prejudgment interest, the insured must
778 select whether to receive prejudgment interest or interest under
779 this subsection. Interest is payable when the claim or portion
780 of the claim is paid. Failure to comply with this subsection
781 constitutes a violation of this code, and repeated violations
782 constitute an unfair method of competition and an unfair or
783 deceptive act or practice as defined in s. 626.9541. However,

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784 ~~failure to comply with this subsection does not form the sole~~
785 ~~basis for a private cause of action.~~

786 Section 18. Subsection (2) of section 627.70132, Florida
787 Statutes, is amended to read:

788 627.70132 Notice of property insurance claim.—

789 (2) A claim or reopened claim, but not a supplemental
790 claim, under an insurance policy that provides property
791 insurance, as defined in s. 624.604, including a property
792 insurance policy issued by an eligible surplus lines insurer,
793 for loss or damage caused by any peril is barred unless notice
794 of the claim was given to the insurer in accordance with the
795 terms of the policy within 1 year after the date of loss. A
796 supplemental claim is barred unless notice of the supplemental
797 claim was given to the insurer in accordance with the terms of
798 the policy within 18 months after the date of loss. The time
799 limitations of this subsection are tolled during the period of
800 active duty for an insured in active military service.

801 Section 19. Subsection (4) and paragraph (a) of subsection
802 (6) of section 627.70152, Florida Statutes, are amended, and
803 subsection (8) is added to that section, to read:

804 627.70152 Suits arising under a property insurance policy.—

805 (4) INSURER DUTIES.—An insurer must have a procedure for
806 the prompt investigation, review, and evaluation of the dispute
807 stated in the notice and must investigate each claim contained
808 in the notice in accordance with the Florida Insurance Code. An
809 insurer must respond in writing within 10 business days after
810 receiving the notice specified in subsection (3). The insurer
811 must provide the response to the department by e-mail and, to
812 ~~the claimant by e-mail~~ if the insured has designated an e-mail

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813 address in the notice, must provide the response to the insured
814 by e-mail.

815 (a) If an insurer is responding to a notice served on the
816 insurer following a denial of coverage by the insurer, the
817 insurer must respond by:

- 818 1. Accepting coverage;
- 819 2. Continuing to deny coverage; or
- 820 3. Asserting the right to reinspect the damaged property.

821 If the insurer responds by asserting the right to reinspect the
822 damaged property, it has 14 business days after the response
823 asserting that right to reinspect the property and accept or
824 continue to deny coverage. The time limits provided in s. 95.11
825 are tolled during the reinspection period if such time limits
826 expire before the end of the reinspection period. If the insurer
827 continues to deny coverage, the claimant may file suit without
828 providing additional notice to the insurer.

829 (b) If an insurer is responding to a notice provided to the
830 insurer alleging an act or omission by the insurer other than a
831 denial of coverage, the insurer must respond by making a
832 settlement offer or requesting ~~requiring~~ the claimant to
833 participate in appraisal or another method of alternative
834 dispute resolution. A policy must require a claimant's consent
835 to participate in appraisal. Appraisal must be invoked within 30
836 days after presentation of a dispute, but may not be initially
837 invoked after the filing of a lawsuit. The time limits provided
838 in s. 95.11 are tolled as long as appraisal or other alternative
839 dispute resolution is ongoing if such time limits expire during
840 the appraisal process or dispute resolution process. If the
841 appraisal or alternative dispute resolution has not been

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842 concluded within 90 days after the expiration of the 10-day
843 notice of intent to initiate litigation specified in subsection
844 (3), the claimant or claimant's attorney may immediately file
845 suit without providing the insurer additional notice.

846 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
847 provided pursuant to subsection (3) and, if applicable, the
848 documentation to support the information provided in the notice:

849 (a) Are ~~not~~ admissible as evidence only in a any proceeding
850 regarding attorney fees.

851 (8) ALTERNATIVE DISPUTE RESOLUTION PROCESS.—Notwithstanding
852 any contractual provision to the contrary, any alternative
853 dispute resolution process entered into pursuant to this section
854 must be authorized by statute.

855 Section 20. Section 627.70155, Florida Statutes, is created
856 to read:

857 627.70155 Prohibited venue and controlling law provisions.—
858 A residential or commercial property insurance policy, including
859 a residential or commercial property insurance policy issued by
860 an eligible surplus lines insurer, may not require:

861 (1) An insured to bring an administrative or legal action
862 in a venue outside of this state;

863 (2) Any arbitration, mediation, or other legal proceeding
864 to be conducted outside of this state; or

865 (3) That a law of a state other than Florida be applied to
866 any legal proceeding between the insured and insurer.

867 Section 21. Paragraph (a) of subsection (1) of section
868 627.702, Florida Statutes, is amended to read:

869 627.702 Valued policy law.—

870 (1) (a) In the event of the total loss of any building,

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871 structure, mobile home as defined in s. 320.01(2), or
872 manufactured building as defined in s. 553.36(13), located in
873 this state and insured by any insurer as to a covered peril, in
874 the absence of any change increasing the risk without the
875 insurer's consent and in the absence of fraudulent or criminal
876 fault on the part of the insured or one acting in her or his
877 behalf, the insurer's liability under the policy for such total
878 loss, if caused by a covered peril, shall be in the amount of
879 money for which such property was so insured as specified in the
880 policy and for which a premium has been charged and paid. A
881 total loss under this paragraph may not be subject to any
882 requirement for the insured to participate in appraisal.

883 Section 22. Subsection (6) of section 768.79, Florida
884 Statutes, is amended to read:

885 768.79 Offer of judgment and demand for judgment.—

886 (6) For a first-party property insurance breach of contract
887 action, a property insurer may make a joint offer of judgment or
888 settlement, and a plaintiff may make a joint demand for judgment
889 or settlement, which ~~that~~ is conditioned on the mutual
890 acceptance of all the joint offerees.

891 Section 23. This act shall take effect July 1, 2023.