

1 A bill to be entitled
2 An act relating to insurance; creating s. 11.91, F.S.;
3 creating the Property Insurance Commission; providing
4 membership of the commission; providing powers and
5 duties of the commission; amending s. 20.121, F.S.;
6 providing for the election of the Commissioner of
7 Insurance Regulation; providing terms for the
8 commissioner; conforming provisions to changes made by
9 the act; creating s. 112.3134, F.S.; prohibiting the
10 commissioner from engaging in certain activities or
11 employment for a specified period after leaving
12 office; providing sanctions for violations;
13 authorizing specified entities to collect penalties;
14 amending s. 215.5586, F.S.; revising homeowners'
15 eligibility criteria for mitigation grants under the
16 My Safe Florida Home Program; amending s. 494.0026,
17 F.S.; requiring interest earned on insurance proceeds
18 received by mortgagees and assignees to be paid to
19 insureds; amending s. 624.401, F.S.; prohibiting
20 property insurers from claiming insolvency under
21 specified circumstances; authorizing persons who
22 engage in property insurance activities in other
23 states to engage in insurance activities in this state
24 under certain circumstances; amending s. 627.0629,
25 F.S.; requiring residential property insurers to

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 the effectiveness
 41 | of 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

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.

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 qualification ~~qualifications~~ of the
 145 Director of the Office of Financial Regulation ~~directors~~.—The
 146 commission shall appoint or remove the each Director of the
 147 Office of Financial Regulation by a majority vote consisting of
 148 at least three affirmative votes, with both the Governor and the
 149 Chief Financial Officer on the prevailing side. ~~The minimum~~
 150 ~~qualifications of the directors 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 Before 2. ~~Prior to~~ appointment as director, the Director
 161 of the 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 | ~~5.6~~ 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 of whether 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

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.

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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 executed under a residential property insurance
317 policy or under a commercial property insurance policy as that
318 term is defined in s. 627.0625(1), issued on or after July 1,
319 2019, and before January 1, 2023.

320 2. Be in writing and executed by and between the assignor
321 and the assignee.

322 3. Contain a provision that allows the assignor to rescind
323 the assignment agreement without a penalty or fee by submitting
324 a written notice of rescission signed by the assignor to the
325 assignee within 14 days after the execution of the agreement, at

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326 | least 30 days after the date work on the property is scheduled
327 | to commence if the assignee has not substantially performed, or
328 | at least 30 days after the execution of the agreement if the
329 | agreement does not contain a commencement date and the assignee
330 | has not begun substantial work on the property.

331 | 4. Contain a provision requiring the assignee to provide a
332 | copy of the executed assignment agreement to the insurer within
333 | 3 business days after the date on which the assignment agreement
334 | is executed or the date on which work begins, whichever is
335 | earlier. Delivery of the copy of the assignment agreement to the
336 | insurer may be made:

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

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

342 | 5. Contain a written, itemized, per-unit cost estimate of
343 | the services to be performed by the assignee.

344 | 6. Relate only to work to be performed by the assignee for
345 | services to protect, repair, restore, or replace a dwelling or
346 | structure or to mitigate against further damage to such
347 | property.

348 | 7. Contain the following notice in 18-point uppercase and
349 | boldfaced type:

350 | YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR

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351 INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN
352 LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS
353 DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS
354 AGREEMENT WITHOUT PENALTY WITHIN 14 DAYS AFTER THE DATE THIS
355 AGREEMENT IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
356 THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE HAS NOT
357 SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS AFTER THE EXECUTION
358 OF THE AGREEMENT IF THE AGREEMENT DOES NOT CONTAIN A
359 COMMENCEMENT DATE AND THE ASSIGNEE HAS NOT BEGUN SUBSTANTIAL
360 WORK ON THE PROPERTY. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF
361 ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED.
362 THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE
363 DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

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

369 ~~9.8.~~ Contain a provision requiring the assignee to
370 indemnify and hold harmless the assignor from all liabilities,
371 damages, losses, and costs, including, but not limited to,
372 attorney fees.

373 Section 11. Section 627.7155, Florida Statutes, is created
374 to read:

375 627.7155 Office rulemaking.—By January 1, 2024, the office

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376 must adopt rules:

377 (1) Requiring that, each time legislation creating or
378 amending law to reform property insurance takes effect, property
379 insurers must offer mandatory premium rate reduction for their
380 insureds.

381 (2) Ensuring that insurance fraud committed by any person
382 can be easily reported, investigated, and, if necessary,
383 prosecuted.

384 (3) Redetermining flood zones statewide for use when
385 assigning flood risks.

386 Section 12. The Department of Financial Services shall, no
387 later than October 1, 2024, adopt rules regarding any allegation
388 made by an insurer or an employee or contractor thereof of
389 insurance fraud in violation of any provision listed in s.
390 626.9892(2), Florida Statutes. Such rules must include
391 requirements that:

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

395 (2) The department shall promptly investigate such
396 allegations.

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

400 (4) All documents relating to such sanctions shall be

401 public records.

402 Section 13. (1) The Office of Program Policy Analysis and
 403 Government Accountability (OPPAGA) shall conduct a study to
 404 evaluate the effectiveness of the property insurance mediation
 405 program provided pursuant to s. 627.7015, Florida Statutes. The
 406 study's scope must include, but need not be limited to:

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

409 (b) Program resource needs.

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

413 (3) In conducting the study, OPPAGA shall consult with the
 414 Department of Financial Services, insurers, and organizations
 415 representing insurance consumers.

416 (4) OPPAGA shall submit a report on its findings to the
 417 President of the Senate and the Speaker of the House of
 418 Representatives by December 1, 2024.

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

421 Section 4. (1) For the 2023-2024 ~~2022-2023~~ fiscal year,
 422 the sum of \$300 ~~\$150~~ million in nonrecurring funds is
 423 appropriated from the General Revenue Fund to the Department of
 424 Financial Services for the My Safe Florida Home Program. The
 425 funds shall be placed in reserve. The department shall submit

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426 budget amendments requesting release of the funds held in
427 reserve pursuant to chapter 216, Florida Statutes. The budget
428 amendments shall include a detailed spending plan.

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

430 (a) Fifty ~~Twenty-five~~ million dollars for hurricane
431 mitigation inspections.

432 (b) Two hundred thirty ~~One hundred fifteen~~ million dollars
433 for mitigation grants.

434 (c) Eight ~~Four~~ million dollars for education and consumer
435 awareness.

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

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

439 (3) Any unexpended balance of funds from this
440 appropriation remaining on June 30, 2024 ~~2023~~, shall revert and
441 is appropriated to the Department of Financial Services for the
442 2024-2025 ~~2023-2024~~ fiscal year for the same purpose.

443 (4) The department may adopt emergency rules pursuant to
444 s. 120.54, Florida Statutes, at any time, as are necessary to
445 implement this section and s. 215.5586, Florida Statutes, as
446 amended by this act. The Legislature finds that such emergency
447 rulemaking authority is necessary to address a critical need in
448 the state's problematic property insurance market. The
449 Legislature further finds that the uniquely short timeframe
450 needed to effectively implement this section for the 2023-2024

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451 ~~2022-2023~~ fiscal year requires that the department adopt rules
452 as quickly as practicable. Therefore, in adopting such emergency
453 rules, the department need not make the findings required by s.
454 120.54(4)(a), Florida Statutes. Emergency rules adopted under
455 this section are exempt from s. 120.54(4)(c), Florida Statutes,
456 and shall remain in effect until replaced by rules adopted under
457 the nonemergency rulemaking procedures of chapter 120, Florida
458 Statutes, which must occur no later than July 1, 2024 ~~2023~~.

459 (5) This section shall expire on October 1, 2025 ~~2024~~.

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