

By Senator Jones

34-01351-23

20231688__

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; specifying a condition on
22 insurance activities engaged in this state by a person
23 who engages in property insurance activities in
24 another state; amending s. 627.0629, F.S.; requiring
25 residential property insurers to release specified
26 information to insureds upon request; amending s.
27 627.701, F.S.; prohibiting property insurers from
28 using certain defenses for claims denials; amending s.
29 627.715, F.S.; requiring insurance agents to advise

34-01351-23

20231688__

30 insurance applicants of flood risk; amending s.
31 627.7152, F.S.; revising requirements for assignment
32 agreements; creating s. 627.7155, F.S.; requiring the
33 Office of Insurance Regulation to adopt certain rules;
34 requiring the Department of Financial Services to
35 adopt rules regarding allegations of insurance fraud
36 made by insurers or their employees or contractors;
37 providing requirements for such rules; providing
38 fines; requiring the Office of Program Policy Analysis
39 and Government Accountability to conduct a study of
40 the effectiveness of the property insurance mediation
41 program; providing requirements for the study;
42 requiring a report to the Legislature; amending
43 chapter 2022-268, Laws of Florida; extending the My
44 Safe Florida Home Program and specifying
45 appropriations for a certain fiscal year; providing an
46 effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

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

52 11.91 Property Insurance Commission.-

53 (1) (a) There is created the Property Insurance Commission,
54 which shall consist of six members:

55 1. Two members appointed by the President of the Senate.

56 2. One member appointed by the Minority Leader of the
57 Senate.

58 3. Two members appointed by the Speaker of the House of

34-01351-23

20231688__

59 Representatives.

60 4. One member appointed by the House Minority Leader.

61 (b) Each member shall serve at the pleasure of the officer
62 who appointed the member. A vacancy on the commission shall be
63 filled in the same manner as the original appointment. From
64 November of each odd-numbered year through October of each even-
65 numbered year, the chair of the commission shall be appointed by
66 the President of the Senate, and the vice chair of the
67 commission shall be appointed by the Speaker of the House of
68 Representatives. From November of each even-numbered year
69 through October of each odd-numbered year, the chair of the
70 commission shall be appointed by the Speaker of the House of
71 Representatives, and the vice chair of the commission shall be
72 appointed by the President of the Senate. The terms of members
73 shall be for 2 years and shall run from the organization of one
74 Legislature to the organization of the next Legislature.

75 (2) The commission shall be governed by joint rules of the
76 Senate and the House of Representatives, which shall remain in
77 effect until repealed or amended by concurrent resolution.

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

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

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

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

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

34-01351-23

20231688__

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

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

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

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

96 (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,
97 2003, there is created within the Department of Financial
98 Services the Financial Services Commission, composed of the
99 Governor, the Attorney General, the Chief Financial Officer, and
100 the Commissioner of Agriculture, which shall for purposes of
101 this section be referred to as the commission. Commission
102 members shall serve as agency head of the Financial Services
103 Commission. The commission shall be a separate budget entity and
104 shall be exempt from the provisions of s. 20.052. Commission
105 action shall be by majority vote consisting of at least three
106 affirmative votes. The commission shall not be subject to
107 control, supervision, or direction by the Department of
108 Financial Services in any manner, including purchasing,
109 transactions involving real or personal property, personnel, or
110 budgetary matters.

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

114 1. The Office of Insurance Regulation, which shall be
115 responsible for all activities concerning insurers and other
116 risk bearing entities, including licensing, rates, policy forms,

34-01351-23

20231688__

117 market conduct, claims, issuance of certificates of authority,
118 solvency, viatical settlements, premium financing, and
119 administrative supervision, as provided under the insurance code
120 or chapter 636. The head of the Office of Insurance Regulation
121 is the Director of the Office of Insurance Regulation, who may
122 also be known as the Commissioner of Insurance Regulation.
123 Beginning with the General Election in 2024, the Commissioner of
124 Insurance Regulation shall be elected. The commissioner elected
125 in 2024 shall serve a term of 2 years; thereafter, the
126 commissioner shall serve a term of 4 years.

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

145 (d) *Appointment and qualification ~~qualifications~~ of the*

34-01351-23

20231688__

146 Director of the Office of Financial Regulation ~~directors.~~—The
147 commission shall appoint or remove the each Director of the
148 Office of Financial Regulation by a majority vote consisting of
149 at least three affirmative votes, with both the Governor and the
150 Chief Financial Officer on the prevailing side. ~~The minimum~~
151 ~~qualifications of the directors are as follows:~~

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

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

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

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

174 (1) A person who has served as Commissioner of Insurance

34-01351-23

20231688__

175 Regulation may not:

176 (a) Personally represent another person or entity for
177 compensation before the Office of Insurance Regulation; or

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

180

181 for a period of 7 years after vacating that office.

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

184 (a) Public censure and reprimand;

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

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

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

192 Section 4. Paragraph (a) of subsection (2) of section
193 215.5586, Florida Statutes, is amended to read:

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

34-01351-23

20231688__

204 Program provide trained and certified inspectors to perform
205 inspections for owners of site-built, single-family, residential
206 properties and grants to eligible applicants as funding allows.
207 The program shall develop and implement a comprehensive and
208 coordinated approach for hurricane damage mitigation that may
209 include the following:

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

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

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

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

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

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

225 4.5. The building permit application for initial
226 construction of the home must have been made before January 1,
227 2008.

228 5.6. The homeowner must agree to make his or her home
229 available for inspection once a mitigation project is completed.

230

231 An application for a grant must contain a signed or
232 electronically verified statement made under penalty of perjury

34-01351-23

20231688__

233 that the applicant has submitted only a single application and
234 must have attached documents demonstrating the applicant meets
235 the requirements of this paragraph.

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

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

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

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

34-01351-23

20231688__

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 an
290 insurance policy, contract, or endorsement providing personal

34-01351-23

20231688__

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 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.

34-01351-23

20231688__

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
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

34-01351-23

20231688__

349 boldfaced type:
350 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR
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
376 must adopt rules:

377 (1) Requiring that, each time legislation creating or

34-01351-23

20231688__

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:

34-01351-23

20231688

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 Florida,
420 is amended to read:

421 Section 4. (1) For the 2023-2024 ~~2022-2023~~ fiscal year, the
422 sum of \$300 ~~\$150~~ million in nonrecurring funds is appropriated
423 from the General Revenue Fund to the Department of Financial
424 Services for the My Safe Florida Home Program. The funds shall
425 be placed in reserve. The department shall submit budget
426 amendments requesting release of the funds held in reserve
427 pursuant to chapter 216, Florida Statutes. The budget amendments
428 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.

34-01351-23

20231688__

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 appropriation
440 remaining on June 30, 2024 ~~2023~~, shall revert and is
441 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 s.
444 120.54, 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
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.