

1                                   A bill to be entitled  
2           An act relating to collateral protection insurance on  
3           real property; creating part XXII of ch. 627, F.S.,  
4           titled "Real Property Collateral Protection  
5           Insurance"; creating s. 627.9901, F.S.; providing  
6           purpose; creating s. 627.9902, F.S.; providing scope;  
7           creating s. 627.9903, F.S.; providing definitions;  
8           creating s. 627.9904, F.S.; providing the effective  
9           date of collateral protection insurance on mortgaged  
10          real property; providing the termination date of  
11          individual collateral protection insurance;  
12          prohibiting insurance charges under certain  
13          circumstances; creating s. 627.9905, F.S.; providing  
14          calculations of coverages and premiums; creating s.  
15          627.9906, F.S.; prohibiting collateral protection  
16          insurers and insurance agents from engaging in certain  
17          practices; creating s. 627.9907, F.S.; providing  
18          construction; creating s. 627.9908, F.S.; providing  
19          requirements for proof of collateral protection  
20          insurance; creating s. 627.9909, F.S.; providing  
21          requirements for policy forms, certificates of  
22          insurance, and rate filings; providing reporting  
23          requirements for certain insurers; creating s.  
24          627.9911, F.S.; providing rights and powers of the  
25          Office of Insurance Regulation for enforcement

26 | purposes; providing requirements for proceedings;  
 27 | providing penalties; creating s. 627.9912, F.S.;  
 28 | providing rulemaking authority; creating s. 627.9913,  
 29 | F.S.; providing severability; providing an effective  
 30 | date.

31 |  
 32 | Be It Enacted by the Legislature of the State of Florida:  
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34 | Section 1. Part XXII of chapter 627, Florida Statutes,  
 35 | consisting of sections 627.9901, 627.9902, 627.9903, 627.9904,  
 36 | 627.9905, 627.9906, 627.9907, 627.9908, 627.9909, 627.9911,  
 37 | 627.9912, and 627.9913, Florida Statutes, is created to read:

38 | PART XXII

39 | REAL PROPERTY COLLATERAL PROTECTION INSURANCE

40 | 627.9901 Purpose.—The purpose of this part is to:

41 | (1) Promote the public welfare by regulating collateral  
 42 | protection insurance on real property.

43 | (2) Create a legal framework within which collateral  
 44 | protection insurance on real property may be written in the  
 45 | state.

46 | (3) Help maintain the separation between lenders or  
 47 | servicers, and insurers or insurance agents.

48 | (4) Minimize the possibilities of unfair competitive  
 49 | practices in the sale, placement, solicitation, and negotiation  
 50 | of collateral protection insurance.

51       627.9902 Scope.—This part applies to insurers and  
52 insurance agents engaged in any transaction involving collateral  
53 protection insurance on real property. All collateral protection  
54 insurance written in connection with mortgaged real property,  
55 including manufactured and mobile homes, is subject to the  
56 provisions of this part, except:

57       (1) Transactions involving extensions of credit primarily  
58 for business, commercial, or agricultural purposes.

59       (2) Insurance offered by the lender or servicer and  
60 elected by the mortgagor at the mortgagor's option.

61       (3) Insurance purchased by a lender or servicer on real-  
62 estate owned property.

63       (4) Insurance for which no specific charge is made to the  
64 mortgagor or the mortgagor's account.

65       627.9903 Definitions.—As used in this part, the term:

66       (1) "Collateral protection insurance" means commercial  
67 property insurance under which a creditor is the primary  
68 beneficiary and policyholder and which protects or covers an  
69 interest of the creditor arising out of a credit transaction  
70 secured by real property. Initiation of such coverage is  
71 triggered by the mortgagor's failure to maintain insurance  
72 coverage as required by the mortgage or other lending document.  
73 For purposes of this part, collateral protection insurance  
74 applies only to mortgaged real property, not personal property.

75       (2) "Individual collateral protection insurance" means

76 coverage for individual real property evidenced by a certificate  
 77 of coverage under a master collateral protection insurance  
 78 policy or a collateral protection insurance policy for  
 79 individual real property.

80 (3) "Insurer" means an insurer authorized to issue  
 81 collateral protection insurance on mortgaged real property in  
 82 the state.

83 (4) "Investor" means a person or an entity, and affiliates  
 84 of the person or entity, holding a beneficial interest in loans  
 85 secured by real property.

86 (5) "Lapse" means the moment in time in which a mortgagor  
 87 has failed to secure or maintain valid or sufficient insurance  
 88 upon a mortgaged real property as required by a mortgage  
 89 agreement.

90 (6) "Last known coverage amount" means a dwelling coverage  
 91 amount specified in the most recent evidence of insurance  
 92 coverage provided by the mortgagee.

93 (7) "Lender" means a person or entity, and affiliates of  
 94 the person or entity, making loans secured by an interest in  
 95 real property.

96 (8) "Loss ratio" means the ratio of incurred losses to  
 97 earned premium.

98 (9) "Master collateral protection insurance policy" means  
 99 a group policy issued to a lender or servicer providing coverage  
 100 for all loans in the lender's or servicer's loan portfolio as

101 needed.

102 (10) "Mortgage agreement" means a written document that  
103 specifies an obligation or a liability of any kind secured by a  
104 lien on a real property and due from, and owing or incurred by,  
105 a mortgagor to a lender on account of a mortgage loan, including  
106 the security agreement, deed of trust, any other document of  
107 similar effect, and any other document incorporated by  
108 reference.

109 (11) "Mortgage loan" means a loan, an advance, a  
110 guarantee, or other extension of credit from a lender to a  
111 mortgagor.

112 (12) "Mortgagee" means a person or an entity that holds a  
113 mortgaged real property, or, as applicable, a lien on mortgaged  
114 real property, as security for repayment of a mortgage  
115 agreement.

116 (13) "Mortgagor" means a person who is obligated on a  
117 mortgage loan pursuant to a mortgage agreement.

118 (14) "Real-estate owned property" means a real property  
119 owned or held by a lender or servicer following foreclosure  
120 under the related mortgage agreement or the acceptance of a deed  
121 in lieu of foreclosure.

122 (15) "Replacement cost value" is the estimated cost to  
123 replace a covered real property at the time of loss or damage  
124 without deduction for depreciation. Replacement cost value is  
125 not market value, but the cost to replace the covered real

126 property to its condition before the loss or damage.

127 (17) "Servicer" means a person or an entity, and  
128 affiliates of the person or entity, contractually obligated to  
129 service one or more mortgage loans for a lender or investor. The  
130 term includes persons or entities involved in subservicing  
131 arrangements.

132 627.9904 Terms of policies.—

133 (1) Collateral protection insurance shall become effective  
134 no earlier than the date of lapse of insurance upon mortgaged  
135 real property subject to the terms of a mortgage agreement or  
136 any other state or federal law requiring the same.

137 (2) Individual collateral protection insurance shall  
138 terminate on the earliest of the following dates:

139 (a) The date on which insurance that is acceptable under  
140 the mortgage agreement becomes effective, subject to the  
141 mortgagor providing sufficient evidence of such acceptable  
142 insurance.

143 (b) The date on which the applicable real property no  
144 longer serves as collateral for a mortgage loan pursuant to a  
145 mortgage agreement.

146 (c) Such other date as specified by the individual policy  
147 or certificate of insurance.

148 (d) Such other date as specified by the lender or  
149 servicer.

150 (e) The termination date of the policy.

151       (3) An insurance charge may not be made to a mortgagor for  
152 collateral protection insurance for a term longer than the  
153 scheduled term of the collateral protection insurance, and an  
154 insurance charge may not be made to the mortgagor for collateral  
155 protection insurance before the effective date of the collateral  
156 protection insurance.

157       627.9905 Calculations of coverages and premiums.—

158       (1) (a) Any collateral protection insurance coverage and  
159 subsequent calculation of premium should be based upon the  
160 replacement cost value of the real property serving as  
161 collateral as best determined by the last known coverage amount,  
162 if known to the lender or servicer.

163       (b) An insurer or insurance agent shall inquire of the  
164 insured, at least once, as to the last known coverage amount  
165 and, if the insurer or insurance agent cannot obtain the last  
166 known coverage amount from the insured or in another manner, the  
167 collateral protection insurance coverage and subsequent  
168 calculation of premium may be based upon:

169       1. The replacement cost value of the real property serving  
170 as collateral as calculated by the insurer, if the use of  
171 replacement cost value for this purpose is not prohibited by  
172 other state or federal law; or

173       2 The unpaid principal balance of the mortgage loan, if  
174 the use of replacement cost value for this purpose is prohibited  
175 by other state or federal law or if the replacement cost value

176 is not available.

177 (c) In the event of a covered loss, any replacement cost  
 178 value coverage provided by an insurer in excess of the unpaid  
 179 principal balance of the mortgage loan shall be paid to the  
 180 mortgagor.

181 (2) An insurer may not write collateral protection  
 182 insurance for which the premium rate differs from that  
 183 determined by the schedules of the insurer on file with the  
 184 office as of the effective date of such policy.

185 627.9906 Prohibited practices.—An insurer or insurance  
 186 agent may not:

187 (1) Issue collateral protection insurance on a mortgaged  
 188 real property if the insurer or insurance agent or an affiliate  
 189 of the insurer or insurance agent owns the real property or  
 190 performs the servicing for, or owns the servicing rights to, the  
 191 real property;

192 (2) Compensate a lender, insurer, investor, or servicer,  
 193 including through the payment of commissions, on collateral  
 194 protection property insurance policies issued by the insurer;

195 (3) Share collateral protection insurance premium or risk  
 196 with the lender, investor, or servicer that obtained the  
 197 collateral protection insurance;

198 (4) Offer contingent commissions, profit-sharing, or other  
 199 payments dependent on profitability or loss ratios to any person  
 200 affiliated with a servicer or the insurer in connection with



201 collateral protection insurance;

202 (5) Provide free or below-cost outsourced services to a  
203 lender, investor, or servicer and may not outsource its own  
204 functions to a lender, investor, or servicer on an above-cost  
205 basis; or

206 (6) Make any payments, including, but not limited to, the  
207 payment of expenses to a lender, insurer, investor, or servicer  
208 for the purpose of securing collateral protection insurance  
209 business or related outsourced services.

210 627.9907 Noncircumvention.—This part may not be construed  
211 to allow an insurance agent or insurer underwriting collateral  
212 protection insurance solely to circumvent the requirements  
213 specified in this part. Any such requirement, limitation, or  
214 exclusion provided in this part applies to all insurers or  
215 insurance agents involved in collateral protection insurance.

216 627.9908 Evidence of coverage.—Proof of collateral  
217 protection insurance must be provided in an individual policy or  
218 a certificate of insurance. A copy of the individual policy,  
219 certificate of insurance, or other evidence of insurance  
220 coverage shall be mailed by first-class mail or delivered in  
221 person to the last known address of the mortgagor or delivered  
222 in accordance with s. 668.50, the Uniform Electronic Transaction  
223 Act. Notwithstanding any other general law to the contrary, the  
224 individual policy or certificate of insurance coverage must  
225 include the following information:

226        (1) The address and identification of the insured real  
 227 property.

228        (2) The coverage amount or, if multiple coverages are  
 229 provided, amounts.

230        (3) The effective date of the coverage.

231        (4) The term of coverage.

232        (5) The premium charge for the coverage.

233        (6) Contact information for filing a claim.

234        (7) A complete description of the coverage provided.

235        627.9909 Policy forms and certificates of insurance; rate  
 236 filings.-

237        (1) Except as otherwise provided in this part, all policy  
 238 forms and certificates of insurance to be delivered or issued  
 239 for delivery in the state are subject to the applicable  
 240 provisions of s. 627.410, and the schedules of premium rates  
 241 pertaining thereto are subject to the applicable provisions of  
 242 s. 627.062.

243        (2) With respect to an analysis of rates in accordance  
 244 with s. 627.062(1), the analysis must also include a  
 245 determination as to whether expenses included by the insurer in  
 246 the rates are appropriate.

247        (3) Notwithstanding s. 627.0645, insurers subject to this  
 248 part shall refile collateral protection property insurance rates  
 249 at least once every 4 years.

250        (4) All insurers writing collateral protection insurance

251 must have separate rates for collateral protection insurance and  
252 voluntary insurance obtained by a mortgage servicer on real-  
253 estate owned property.

254 (5) Upon the introduction of a new collateral protection  
255 insurance program, the insurer shall reference its experience in  
256 existing programs in the associated filings. This part does not  
257 limit an insurer's discretion, as actuarially appropriate, to  
258 distinguish different terms, conditions, exclusions, eligibility  
259 criteria, or other unique or different characteristics.  
260 Moreover, an insurer may, if actuarially acceptable, rely upon  
261 models or, in the case of flood filings if applicable experience  
262 is not credible, on the Federal Emergency Management Agency's  
263 National Flood Insurance Program data.

264 (6)(a) By April 1 of each year, each insurer with at least  
265 \$100,000 in direct written premium for collateral protection  
266 insurance in the state during the prior calendar year shall  
267 report to the office the following information for the prior  
268 calendar year:

- 269 1. Actual loss ratio.
- 270 2. Earned premiums.
- 271 3. Any aggregate schedule rating debit or credit to earned  
272 premium.
- 273 4. Itemized expenses.
- 274 5. Paid losses.
- 275 6. Loss reserves, including case reserves and reserves for

276 incurred but not reported losses.

277 (b) The report shall be separately produced for each  
278 collateral protection insurance program and presented on both an  
279 individual-jurisdiction and countrywide basis.

280 (7) Except in the case of collateral protection insurance  
281 covering the peril of flood, to which this subsection does not  
282 apply, if an insurer experiences an annual loss ratio of less  
283 than 35 percent in any collateral protection insurance program  
284 for 2 consecutive years, the insurer shall submit a rate filing,  
285 either adjusting its rates or supporting the continuance of its  
286 rates, to the office no more than 90 days after the submission  
287 of the data required in paragraph (6) (a).

288 (8) Except as provided in this section, rate and form  
289 filing requirements are subject to the Florida Insurance Code.

290 627.9911 Enforcement and judicial review.—The office shall  
291 have all rights and powers to enforce the provisions of this  
292 part, as provided in s. 624.307. All proceedings, including  
293 judicial review, shall be conducted in accordance with the  
294 administrative procedures prescribed in chapter 120. Penalties  
295 for any violation of this part shall be assessed in accordance  
296 with s. 624.4211.

297 627.9912 Rulemaking authority.—The office may, after  
298 notice and hearing, adopt reasonable rules and regulations to  
299 implement and administer this part.

300 627.9913 Severability provisions.—If any provision of this

HB 793

2023

301 part or the application of the provision to any person or  
302 circumstance is held invalid, the remainder of this part and the  
303 application of such provision to other persons or circumstances  
304 are not affected thereby.

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