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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/05/2024	.	
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	.	
	.	

The Committee on Judiciary (Burton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present paragraphs (a), (b), and (c) of
subsection (1) and present subsection (4) of section 45.032,
Florida Statutes, are redesignated as paragraphs (b), (c), and
(d) of subsection (1) and subsection (5), respectively, a new
paragraph (a) is added to subsection (1) and a new subsection
(4) is added to that section, and paragraphs (a) and (b) of
subsection (3) of that section are amended, to read:



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12 45.032 Disbursement of surplus funds after judicial sale.-

13 (1) For purposes of ss. 45.031-45.035, the term:

14 (a) "Nonprofit organization" means a charitable
15 organization that:

16 1. Is exempt from federal income tax pursuant to s.
17 501(c)(3) of the Internal Revenue Code; and

18 2. Is a Florida entity formed under chapter 605, chapter
19 607, or chapter 617 and whose principal office is located in
20 this state.

21 (3) During the period that the clerk holds the surplus
22 pending a court order:

23 (a) If the owner of record claims the surplus before the
24 date that the clerk reports it as unclaimed and there is no
25 subordinate lienholder, the court must ~~shall~~ order the clerk to
26 deduct any applicable service charges from the surplus and pay
27 the remainder to the owner of record. Any person representing an
28 owner of record in claiming the surplus shall disclose to the
29 court the total amount of compensation and other fees to be paid
30 to himself or herself and may not charge the owner of record
31 more than 5 percent of the surplus or \$1,000, whichever is
32 greater. The clerk may establish a reasonable requirement that
33 the owner of record prove his or her identity before receiving
34 the disbursement. The clerk may assist an owner of record in
35 making a claim. An owner of record may use the following form in
36 making a claim:

37
38 (Caption of Action)

39
40 OWNER'S CLAIM FOR



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MORTGAGE FORECLOSURE SURPLUS

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State of

County of

Under penalty of perjury, I (we) hereby certify that:

1. I was (we were) the owner of the following described real property in County, Florida, prior to the foreclosure sale and as of the date of the filing of the lis pendens:

...(Legal description of real property)...

2. I (we) do not owe any money on any mortgage on the property that was foreclosed other than the one that was paid off by the foreclosure.

3. I (we) do not owe any money that is the subject of an unpaid judgment, tax warrant, condominium lien, cooperative lien, or homeowners' association.

4. I am (we are) not currently in bankruptcy.

5. I (we) have not sold or assigned my (our) right to the mortgage surplus.

6. My (our) new address is:

7. If there is more than one owner entitled to the surplus, we have agreed that the surplus should be paid jointly, or to:, at the following address:

8. I (WE) UNDERSTAND THAT I (WE) AM (ARE) NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND I (WE) DO NOT HAVE TO ASSIGN MY (OUR) RIGHTS TO ANYONE ELSE IN ORDER TO CLAIM ANY MONEY TO WHICH I (WE) MAY BE ENTITLED.

9. I (WE) UNDERSTAND THAT THIS STATEMENT IS GIVEN UNDER



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70 OATH, AND IF ANY STATEMENTS ARE UNTRUE THAT I (WE) MAY BE
71 PROSECUTED CRIMINALLY FOR PERJURY.

72
73 ...(Signatures)...

74
75 Sworn to (or affirmed) and subscribed before me this
76 day of, ...(year)...., by ...(name of person making
77 statement)....

78 ...(Signature of Notary Public - State of Florida)...
79 ...(Print, Type, or Stamp Commissioned Name of Notary
80 Public)...

81
82 Personally Known OR Produced Identification
83 Type of Identification Produced.....

84 (b) If any person other than the owner of record claims an
85 interest in the proceeds prior to the date that the clerk
86 reports the surplus as unclaimed or if the owner of record files
87 a claim for the surplus but acknowledges that one or more other
88 persons may be entitled to part or all of the surplus, the court
89 shall set an evidentiary hearing to determine entitlement to the
90 surplus. At the evidentiary hearing, an equity assignee has the
91 burden of proving that he or she is entitled to some or all of
92 the surplus funds. The court may grant summary judgment to a
93 subordinate lienholder prior to or at the evidentiary hearing.
94 The court shall consider the factors in s. 45.033 when hearing a
95 claim that any person other than a subordinate lienholder or the
96 owner of record is entitled to the surplus funds and shall hold
97 any such claim that fails to qualify under s. 45.033 invalid.

98 (4) Any nonprofit organization has unconditional standing



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99 to appear in any matter to oppose agreements that do not comply
100 with this section or s. 45.033. If it is the prevailing party,
101 the nonprofit organization is entitled to fees and costs,
102 payable from the surplus, equal to the lesser of 5 percent of
103 the surplus, or the fee stated in the opposed agreement.

104 Section 2. Paragraphs (a), (b), and (d) of subsection (3)
105 and subsections (5) and (6) of section 45.033, Florida Statutes,
106 are amended, to read:

107 45.033 Sale or assignment of rights to surplus funds in a
108 property subject to foreclosure.—

109 (3) A voluntary transfer or assignment shall be a transfer
110 or assignment qualified under this subsection, thereby entitling
111 the transferee or assignee to the surplus funds or a portion or
112 percentage of the surplus funds, if:

113 (a) The transfer or assignment is in writing and the
114 instrument:

115 1. Is executed after the foreclosure sale ~~If executed prior~~
116 ~~to the foreclosure sale, includes a financial disclosure that~~
117 ~~specifies the assessed value of the property, a statement that~~
118 ~~the assessed value may be lower than the actual value of the~~
119 ~~property, the approximate amount of any debt encumbering the~~
120 ~~property, and the approximate amount of any equity in the~~
121 ~~property. If the instrument was executed after the foreclosure~~
122 ~~sale, the instrument must also specify the foreclosure sale~~
123 ~~price and the amount of the surplus.~~

124 2. Includes a statement that the owner does not need an
125 attorney or other representative to recover surplus funds in a
126 foreclosure.

127 3. Specifies all forms of consideration paid for the rights



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128 to the property or the assignment of the rights to any surplus
129 funds.

130 (b) The transferee or assignee is a nonprofit organization
131 ~~transfer or assignment is filed with the court on or before 60~~
132 ~~days after the filing of the certificate of disbursements.~~

133 (d) The total compensation paid or payable, or earned or
134 expected to be earned, by the transferee or assignee does not
135 exceed 5 percent of the surplus or \$1,000, whichever is greater
136 ~~12 percent of the surplus.~~

137 (5) ~~If the court finds that~~ A voluntary transfer or
138 assignment that does not qualify under subsection (3) is invalid
139 and void ~~but that the transfer or assignment was procured in~~
140 ~~good faith and with no intent to defraud the transferor or~~
141 ~~assignor, the court may order the clerk to pay the claim of the~~
142 ~~transferee or assignee after payment of timely filed claims of~~
143 ~~subordinate lienholders.~~

144 ~~(6) If a voluntary transfer or assignment of the surplus is~~
145 ~~set aside, the owner of record shall be entitled to payment of~~
146 ~~the surplus after payment of timely filed claims of subordinate~~
147 ~~lienholders, but the transferee or assignee may seek in a~~
148 ~~separate proceeding repayment of any consideration paid for the~~
149 ~~transfer or assignment.~~

150 Section 3. Subsection (6) of section 197.582, Florida
151 Statutes, is amended, and a new subsection (10) is added to that
152 section, to read:

153 197.582 Disbursement of proceeds of sale.—

154 (6) Within 90 days after the claim period expires, the
155 clerk must file an interpleader action in the circuit court if a
156 claim is made by the property owner, an alleged assignee or



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157 transferee of the property owner, or any party purporting to
158 represent the property owner. If any other person described in
159 s. 197.502(7) files a claim, and no claim is filed by the
160 property owner, the clerk may either file an interpleader action
161 in circuit court, if potentially conflicting claims to the funds
162 exist, or pay the surplus funds according to the clerk's
163 determination of the priority of claims using the information
164 provided by the claimants under subsection (3). Fees and costs
165 incurred by the clerk in determining whether an interpleader
166 action should be filed shall be paid from the surplus funds. If
167 the clerk files an interpleader action, the court ~~must~~ shall
168 determine the distribution of funds based upon the priority of
169 liens filed. The clerk may move the court to award reasonable
170 fees and costs from the interpleaded funds. An action to require
171 payment of surplus funds is not ripe until the claim and review
172 periods expire. The failure of a person described in s.
173 197.502(4), other than the property owner, to file a claim for
174 surplus funds within the 120 days constitutes a waiver of all
175 interest in the surplus funds, and all claims for them are
176 forever barred.

177 (10) (a) A property owner may not transfer or assign its
178 interest in surplus funds to any party, except a nonprofit
179 organization that is exempt from federal income tax pursuant to
180 s. 501(c) (3) of the Internal Revenue Code, and is a Florida
181 entity formed under chapter 605, chapter 607, or chapter 617 and
182 whose principal office is located in this state. Any assignment
183 or transfer that does not conform with this paragraph is deemed
184 invalid.

185 (b) Any person representing a property owner in claiming



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186 the surplus funds shall disclose to the court the total amount
187 of compensation and other fees to be paid to himself or herself
188 and may not charge the property owner more than 5 percent of the
189 surplus or \$1,000, whichever is greater.

190 (c) Any nonprofit organization shall have unconditional
191 standing to appear in any matter to oppose agreements that do
192 not comply with this section. If it is the prevailing party, the
193 nonprofit organization is entitled to fees and costs, payable
194 from the surplus, equal to the lesser of 5 percent of the
195 surplus, or the fee stated in the opposed agreement.

196 Section 4. Section 212.134, Florida Statutes, is amended to
197 read:

198 212.134 Information returns relating to payment-card and
199 third-party network transactions.—

200 (1) For purposes of this section, the term:

201 (a) "Participating payee" has the same meaning as in s.
202 6050W of the Internal Revenue Code.

203 (b) "Return" or "information return" means IRS Form 1099-K
204 required under s. 6050W of the Internal Revenue Code.

205 (c) "Third party network transaction" has the same meaning
206 as in s. 6050W of the Internal Revenue Code.

207 (d) "Third party settlement organization" has the same
208 meaning as in s. 6050W of the Internal Revenue Code.

209 (2) For each year in which a payment settlement entity, an
210 electronic payment facilitator, or other third party contracted
211 with the payment settlement entity to make payments to settle
212 reportable payment transactions on behalf of the payment
213 settlement entity must file a return pursuant to s. 6050W of the
214 Internal Revenue Code, for participating payees with an address



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215 in this state, the entity, the facilitator, or the third party
216 must submit the information in the return to the department by
217 the 30th day after filing the federal return. The format of the
218 information returns required must be either a copy of such
219 information returns or a copy of such information returns
220 related to participating payees with an address in the state.
221 For purposes of this subsection, the term "payment settlement
222 entity" has the same meaning as provided in s. 6050W of the
223 Internal Revenue Code.

224 (3)~~(2)~~ All reports of returns submitted to the department
225 under this section must be in an electronic format.

226 (4)~~(3)~~ Any payment settlement entity, facilitator, or third
227 party failing to file the information return required, filing an
228 incomplete information return, or not filing an information
229 return within the time prescribed is subject to a penalty of
230 \$1,000 for each failure, if the failure is for not more than 30
231 days, with an additional \$1,000 for each month or fraction of a
232 month during which each failure continues. The total amount of
233 penalty imposed on a reporting entity may not exceed \$10,000
234 annually.

235 (5)~~(4)~~ The executive director or his or her designee may
236 waive the penalty if he or she determines that the failure to
237 timely file an information return was due to reasonable cause
238 and not due to willful negligence, willful neglect, or fraud.

239 (6) All third party settlement organizations that conduct
240 transactions involving a participating payee with an address in
241 this state shall create a mechanism for participating payees to
242 identify whether a participating payee's transaction is for
243 goods and services or is personal. The mechanism must clearly



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244 indicate the participating payee's requirement to indicate the
245 appropriate transaction type. The participating payee is
246 responsible for indicating the appropriate transaction type. All
247 third party settlement organizations shall maintain records that
248 clearly identify whether a transaction, as designated by the
249 participating payee, is a transaction for goods and services or
250 is personal. The information in the return submitted to the
251 department under subsection (2) for such entities must be
252 limited to transactions for goods and services.

253 (7) Notwithstanding this section, subsection (6) does not
254 apply to a third party settlement organization if a contractual
255 agreement or arrangement to provide a third party payment
256 network to a participating payee requires the third party
257 settlement organization solely to settle third party network
258 transactions for the provision of goods and services.

259 Section 5. Section 286.312, Florida Statutes, is created to
260 read:

261 286.312 Prohibited use of state funds; censorship or
262 blacklisting of news sources.—An agency may not enter into a
263 contract or other agreement with an entity whose function is to
264 advise the censorship or blacklisting of news sources based on
265 subjective criteria or political biases under the stated goal of
266 fact-checking or removing misinformation.

267 Section 6. Subsection (2) of section 319.261, Florida
268 Statutes, is amended to read:

269 319.261 Real property transactions; retiring title to
270 mobile home.—

271 (2) The department must retire the title to the mobile home
272 ~~may be retired by the department~~ if the owner of the real



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273 property records the following documents in the official records
274 of the clerk of court in the county in which the real property
275 is located:

276 (a) 1. The original title to the mobile home which includes
277 ~~shall include~~ a description of the mobile home, including model
278 year, make, width, length, and vehicle identification number,
279 and a statement by any recorded lienholder on the title that the
280 security interest in the home has been released, or that such
281 security interest will be released upon retirement of the title
282 as set forth in this section.

283 2. ~~(b)~~ The legal description of the real property, and in
284 the case of a leasehold interest, a copy of the lease agreement.

285 3. ~~(e)~~ A sworn statement by the owner of the real property,
286 as shown on the real property deed or lease, that he or she is
287 the owner of the mobile home and that the home is permanently
288 affixed to the real property in accordance with state law; or-

289 (b) A mortgage that encumbers the interest of the owner of
290 the mobile home and the real property and contains a description
291 of the mobile home, including model, year, make, width, length,
292 and vehicle identification number, and the mobile home is
293 classified as real property under s. 320.15(1) and has been
294 issued an "RP" sticker in accordance with s. 320.0815(2).

295 Section 7. Section 489.147, Florida Statutes, is amended to
296 read:

297 489.147 Prohibited property insurance practices; contract
298 requirements.-

299 (1) As used in this section, the term:

300 (a) "Prohibited advertisement" means any written or
301 electronic communication by a contractor which encourages,



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302 instructs, or induces a consumer to contact a contractor or
303 public adjuster for the purpose of making an insurance claim for
304 roof damage, if such communication does not state in a font size
305 of at least 12 points and at least half as large as the largest
306 font size used in the communication that:

307 1. The consumer is responsible for payment of any insurance
308 deductible;

309 2. It is insurance fraud punishable as a felony of the
310 third degree for a contractor to knowingly or willfully, and
311 with intent to injure, defraud, or deceive, pay, waive, or
312 rebate all or part of an insurance deductible applicable to
313 payment to the contractor for repairs to a property covered by a
314 property insurance policy; and

315 3. It is insurance fraud punishable as a felony of the
316 third degree to intentionally file an insurance claim containing
317 any false, incomplete, or misleading information.

318

319 The term includes, but is not limited to, door hangers, business
320 cards, magnets, flyers, pamphlets, and e-mails.

321 (b) "Soliciting" means contacting:

322 1. In person;

323 2. By electronic means, including, but not limited to, e-
324 mail, telephone, and any other real-time communication directed
325 to a specific person; or

326 3. By delivery to a specific person.

327 (2) A contractor may not directly or indirectly engage in
328 any of the following practices:

329 (a) Soliciting a residential property owner by means of a
330 prohibited advertisement.



331 (b) Offering to a residential property owner a rebate,
332 gift, gift card, cash, coupon, waiver of any insurance
333 deductible, or any other thing of value in exchange for:

334 1. Allowing the contractor to conduct an inspection of the
335 residential property owner's roof; or

336 2. Making an insurance claim for damage to the residential
337 property owner's roof.

338 (c) Offering, delivering, receiving, or accepting any
339 compensation, inducement, or reward, for the referral of any
340 services for which property insurance proceeds are payable.
341 Payment by the residential property owner or insurance company
342 to a contractor for roofing services rendered does not
343 constitute compensation for a referral.

344 (d) Interpreting policy provisions or advising an insured
345 regarding coverages or duties under the insured's property
346 insurance policy or adjusting a property insurance claim on
347 behalf of the insured, unless the contractor holds a license as
348 a public adjuster pursuant to part VI of chapter 626.

349 (e) Providing an insured with an agreement authorizing
350 repairs without providing a good faith estimate of the itemized
351 and detailed cost of services and materials for repairs
352 undertaken pursuant to a property insurance claim. A contractor
353 does not violate this paragraph if, as a result of the process
354 of the insurer adjusting a claim, the actual cost of repairs
355 differs from the initial estimate.

356 (3) A contractor who violates this section is subject to
357 disciplinary proceedings as set forth in s. 489.129. A
358 contractor may receive up to a \$10,000 fine for each violation
359 of this section.



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360 (4) For the purposes of this section:

361 (a) The acts of any person on behalf of a contractor,
362 including, but not limited to, the acts of a compensated
363 employee or a nonemployee who is compensated for soliciting,
364 shall be considered the actions of the contractor.

365 (b) An unlicensed person who engages in an act prohibited
366 by this section is guilty of unlicensed contracting and is
367 subject to the penalties set forth in s. 489.13. Notwithstanding
368 s. 489.13(3), an unlicensed person who violates this section may
369 be fined up to \$10,000 for each violation.

370 (5) A contractor may not execute a contract with a
371 residential property owner to repair or replace a roof without
372 including a notice that the contractor may not engage in the
373 practices set forth in paragraph (2) (b). If the contractor fails
374 to include such notice, the residential property owner may void
375 the contract within 10 days after executing it.

376 (6) (a) An insured or a claimant may cancel a contract to
377 replace or repair a roof without penalty or obligation until 10
378 days following the execution of the contract or until the
379 official start date, whichever comes first, if the contract was
380 entered into based on events that are the subject of a
381 declaration of a state of emergency by the Governor. For the
382 purposes of this subsection, the term "official start date" is
383 the date on which the work on the roof commences.

384 (b) A contractor who executes a contract to replace or
385 repair a roof of a residential property during a declaration of
386 a state of emergency must include in the contract the following
387 language, in bold type of not less than 18 points, immediately
388 before the space reserved for the signature of the residential



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389 property owner:

390

391 You, the residential property owner, may cancel this
392 contract without penalty or obligation until 10 days
393 following the execution of the contract or until the
394 official start date, whichever comes first, because
395 this contract was entered into during a declaration of
396 a state of emergency by the Governor. It is the
397 responsibility of your contractor to include an
398 official start date clause in your contract. This
399 clause must state the official start date and the work
400 that will be commenced on that date. If there is no
401 official start date clause in the contract, the
402 contract may be voided within 10 days following the
403 execution of the contract.

404

405 (c) If the insured or claimant desires to cancel the
406 contract under this subsection, such person must send a notice
407 of cancellation by certified mail, return receipt requested, or
408 other form of mailing that provides proof thereof, at the
409 address specified in the contract.

410 Section 8. Subsection (9) of section 559.9611, Florida
411 Statutes, is amended to read:

412 559.9611 Definitions.—As used in this part, the term:

413 (9) "Depository institution" means a bank, a credit union,
414 a savings bank, a savings and loan association, a savings or
415 thrift association, or an industrial loan company doing business
416 under the authority of a charter issued by the United States,
417 this state, or any other state, district, territory, or



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418 commonwealth of the United States which is authorized to
419 transact business in this state and whose deposits or share
420 accounts are insured by the Federal Deposit Insurance
421 Corporation or the National Credit Union Share Insurance Fund
422 ~~Florida state-chartered bank, savings bank, credit union, or~~
423 ~~trust company, or a federal savings or thrift association, bank,~~
424 ~~credit union, savings bank, or thrift.~~

425 Section 9. Paragraph (d) of subsection (8) of section
426 624.424, Florida Statutes, is amended to read:

427 624.424 Annual statement and other information.-

428 (8)

429 (d) Upon creation of continuing education required under
430 this paragraph, the certified public accountant who prepares the
431 audit must be licensed to practice pursuant to chapter 473 and
432 must have completed at least 4 hours of insurance-related
433 continuing education during each 2-year continuing education
434 cycle. An insurer may not use the same accountant or partner of
435 an accounting firm responsible for preparing the report required
436 by this subsection for more than 5 consecutive years. Following
437 this period, the insurer may not use such accountant or partner
438 for a period of 5 years, but may use another accountant or
439 partner of the same firm. An insurer may request the office to
440 waive this prohibition based upon an unusual hardship to the
441 insurer and a determination that the accountant is exercising
442 independent judgment that is not unduly influenced by the
443 insurer considering such factors as the number of partners,
444 expertise of the partners or the number of insurance clients of
445 the accounting firm; the premium volume of the insurer; and the
446 number of jurisdictions in which the insurer transacts business.



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447 Section 10. Subsection (19) of section 626.854, Florida
448 Statutes, is amended, and subsections (5) through (18) of that
449 section are republished, to read:

450 626.854 "Public adjuster" defined; prohibitions.—The
451 Legislature finds that it is necessary for the protection of the
452 public to regulate public insurance adjusters and to prevent the
453 unauthorized practice of law.

454 (5) A public adjuster may not directly or indirectly
455 through any other person or entity solicit an insured or
456 claimant by any means except on Monday through Saturday of each
457 week and only between the hours of 8 a.m. and 8 p.m. on those
458 days.

459 (6) When entering a contract for adjuster services after
460 July 1, 2023, a public adjuster:

461 (a) May not collect a fee for services on payments made to
462 a named insured unless they have a written contract with the
463 named insured, or the named insured's legal representative.

464 (b) May not contract for services to be provided by a third
465 party on behalf of the named insured or in pursuit of settlement
466 of the named insured's claim, if the cost of those services is
467 to be borne by the named insured, unless the named insured
468 agrees in writing to procure these services and such agreement
469 is entered into subsequent to the date of the contract for
470 public adjusting services.

471 (c) If a public adjuster contracts with a third-party
472 service provider to assist with the settlement of the named
473 insured's claim, without first obtaining the insured's written
474 consent, payment of the third party's fees must be made by the
475 public adjuster and may not be charged back to the named



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476 insured.

477 (d) If a public adjuster represents anyone other than the
478 named insured in a claim, the public adjuster fees shall be paid
479 by the third party and may not be charged back to the named
480 insured.

481 (7) An insured or claimant may cancel a public adjuster's
482 contract to adjust a claim without penalty or obligation within
483 10 days after the date on which the contract is executed. If the
484 contract was entered into based on events that are the subject
485 of a declaration of a state of emergency by the Governor, an
486 insured or claimant may cancel the public adjuster's contract to
487 adjust a claim without penalty or obligation within 30 days
488 after the date of loss or 10 days after the date on which the
489 contract is executed, whichever is longer. The public adjuster's
490 contract must contain the following language in minimum 18-point
491 bold type immediately before the space reserved in the contract
492 for the signature of the insured or claimant:

493
494 "You, the insured, may cancel this contract for any
495 reason without penalty or obligation to you within 10
496 days after the date of this contract. If this contract
497 was entered into based on events that are the subject
498 of a declaration of a state of emergency by the
499 Governor, you may cancel this contract for any reason
500 without penalty or obligation to you within 30 days
501 after the date of loss or 10 days after the date on
502 which the contract is executed, whichever is longer.
503 You may also cancel the contract without penalty or
504 obligation to you if I, as your public adjuster, fail



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505 to provide you and your insurer a copy of a written
506 estimate within 60 days of the execution of the
507 contract, unless the failure to provide the estimate
508 within 60 days is caused by factors beyond my control,
509 in accordance with s. 627.70131(5)(a)2., Florida
510 Statutes. The 60-day cancellation period for failure
511 to provide a written estimate shall cease on the date
512 I have provided you with the written estimate.”
513

514 The notice of cancellation shall be provided to ...(name of
515 public adjuster)..., submitted in writing and sent by certified
516 mail, return receipt requested, or other form of mailing that
517 provides proof thereof, at the address specified in the
518 contract.

519 (8) It is an unfair and deceptive insurance trade practice
520 pursuant to s. 626.9541 for a public adjuster or any other
521 person to circulate or disseminate any advertisement,
522 announcement, or statement containing any assertion,
523 representation, or statement with respect to the business of
524 insurance which is untrue, deceptive, or misleading.

525 (a) The following statements, made in any public adjuster's
526 advertisement or solicitation, are considered deceptive or
527 misleading:

528 1. A statement or representation that invites an insured
529 policyholder to submit a claim when the policyholder does not
530 have covered damage to insured property.

531 2. A statement or representation that invites an insured
532 policyholder to submit a claim by offering monetary or other
533 valuable inducement.



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534 3. A statement or representation that invites an insured
535 policyholder to submit a claim by stating that there is "no
536 risk" to the policyholder by submitting such claim.

537 4. A statement or representation, or use of a logo or
538 shield, that implies or could mistakenly be construed to imply
539 that the solicitation was issued or distributed by a
540 governmental agency or is sanctioned or endorsed by a
541 governmental agency.

542 (b) For purposes of this paragraph, the term "written
543 advertisement" includes only newspapers, magazines, flyers, and
544 bulk mailers. The following disclaimer, which is not required to
545 be printed on standard size business cards, must be added in
546 bold print and capital letters in typeface no smaller than the
547 typeface of the body of the text to all written advertisements
548 by a public adjuster:

549
550 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
551 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
552 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
553 MAY DISREGARD THIS ADVERTISEMENT."

554
555 (9) A public adjuster, a public adjuster apprentice, or any
556 person or entity acting on behalf of a public adjuster or public
557 adjuster apprentice may not give or offer to give a monetary
558 loan or advance to a client or prospective client.

559 (10) A public adjuster, public adjuster apprentice, or any
560 individual or entity acting on behalf of a public adjuster or
561 public adjuster apprentice may not give or offer to give,
562 directly or indirectly, any article of merchandise having a



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563 value in excess of \$25 to any individual for the purpose of
564 advertising or as an inducement to entering into a contract with
565 a public adjuster.

566 (11) (a) If a public adjuster enters into a contract with an
567 insured or claimant to reopen a claim or file a supplemental
568 claim that seeks additional payments for a claim that has been
569 previously paid in part or in full or settled by the insurer,
570 the public adjuster may not charge, agree to, or accept from any
571 source compensation, payment, commission, fee, or any other
572 thing of value based on a previous settlement or previous claim
573 payments by the insurer for the same cause of loss. The charge,
574 compensation, payment, commission, fee, or any other thing of
575 value must be based only on the claim payments or settlements
576 paid to the insured, exclusive of attorney fees and costs,
577 obtained through the work of the public adjuster after entering
578 into the contract with the insured or claimant. Compensation for
579 the reopened or supplemental claim may not exceed 20 percent of
580 the reopened or supplemental claim payment. In no event shall
581 the contracts described in this paragraph exceed the limitations
582 in paragraph (b).

583 (b) A public adjuster may not charge, agree to, or accept
584 from any source compensation, payment, commission, fee, or any
585 other thing of value in excess of:

586 1. Ten percent of the amount of insurance claim payments or
587 settlements, exclusive of attorney fees and costs, paid to the
588 insured by the insurer for claims based on events that are the
589 subject of a declaration of a state of emergency by the
590 Governor. This provision applies to claims made during the year
591 after the declaration of emergency. After that year, the



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592 limitations in subparagraph 2. apply.

593 2. Twenty percent of the amount of insurance claim payments
594 or settlements, exclusive of attorney fees and costs, paid to
595 the insured by the insurer for claims that are not based on
596 events that are the subject of a declaration of a state of
597 emergency by the Governor.

598 3. One percent of the amount of insurance claim payments or
599 settlements, paid to the insured by the insurer for any coverage
600 part of the policy where the claim payment or written agreement
601 by the insurer to pay is equal to or greater than the policy
602 limit for that part of the policy, if the payment or written
603 commitment to pay is provided within 14 days after the date of
604 loss or within 10 days after the date on which the public
605 adjusting contract is executed, whichever is later.

606 4. Zero percent of the amount of insurance claim payments
607 or settlements, paid to the insured by the insurer for any
608 coverage part of the policy where the claim payment or written
609 agreement by the insurer to pay occurs before the date on which
610 the public adjusting contract is executed.

611 (c) Insurance claim payments made by the insurer do not
612 include policy deductibles, and public adjuster compensation may
613 not be based on the deductible portion of a claim.

614 (d) Public adjuster compensation may not be based on
615 amounts attributable to additional living expenses, unless such
616 compensation is affirmatively agreed to in a separate agreement
617 that includes a disclosure in substantially the following form:

618

619 "I agree to retain and compensate the public adjuster
620 for adjusting my additional living expenses and



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621 securing payment from my insurer for amounts
622 attributable to additional living expenses payable
623 under the policy issued on my (home/mobile
624 home/condominium unit).“

625
626 (e) Public adjuster rate of compensation may not be
627 increased based solely on the fact that the claim is litigated.

628 (f) Any maneuver, shift, or device through which the limits
629 on compensation set forth in this subsection are exceeded is a
630 violation of this chapter punishable as provided under s.
631 626.8698.

632 (12) (a) Each public adjuster must provide to the claimant
633 or insured a written estimate of the loss to assist in the
634 submission of a proof of loss or any other claim for payment of
635 insurance proceeds within 60 days after the date of the
636 contract. The written estimate must include an itemized, per-
637 unit estimate of the repairs, including itemized information on
638 equipment, materials, labor, and supplies, in accordance with
639 accepted industry standards. The public adjuster shall retain
640 such written estimate for at least 5 years and shall make the
641 estimate available to the claimant or insured, the insurer, and
642 the department upon request.

643 (b) An insured may cancel the contract with no additional
644 penalties or fees charged by the public adjuster if such an
645 estimate is not provided within 60 days after executing the
646 contract, subject to the cancellation notice requirement in this
647 section, unless the failure to provide the estimate within 60
648 days is caused by factors beyond the control of the public
649 adjuster. The cancellation period shall cease on the date the



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650 public adjuster provides the written estimate to the insured.

651 (13) A public adjuster, public adjuster apprentice, or any
652 person acting on behalf of a public adjuster or apprentice may
653 not accept referrals of business from any person with whom the
654 public adjuster conducts business if there is any form or manner
655 of agreement to compensate the person, directly or indirectly,
656 for referring business to the public adjuster. A public adjuster
657 may not compensate any person, except for another public
658 adjuster, directly or indirectly, for the principal purpose of
659 referring business to the public adjuster.

660 (14) A company employee adjuster, independent adjuster,
661 attorney, investigator, or other persons acting on behalf of an
662 insurer that needs access to an insured or claimant or to the
663 insured property that is the subject of a claim must provide at
664 least 48 hours' notice to the insured or claimant, public
665 adjuster, or legal representative before scheduling a meeting
666 with the claimant or an onsite inspection of the insured
667 property. The insured or claimant may deny access to the
668 property if the notice has not been provided. The insured or
669 claimant may waive the 48-hour notice.

670 (15) The public adjuster must ensure that prompt notice is
671 given of the claim to the insurer, the public adjuster's
672 contract is provided to the insurer, the property is available
673 for inspection of the loss or damage by the insurer, and the
674 insurer is given an opportunity to interview the insured
675 directly about the loss and claim. The insurer must be allowed
676 to obtain necessary information to investigate and respond to
677 the claim.

678 (a) The insurer may not exclude the public adjuster from



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679 its in-person meetings with the insured. The insurer shall meet
680 or communicate with the public adjuster in an effort to reach
681 agreement as to the scope of the covered loss under the
682 insurance policy. The public adjuster shall meet or communicate
683 with the insurer in an effort to reach agreement as to the scope
684 of the covered loss under the insurance policy. This section
685 does not impair the terms and conditions of the insurance policy
686 in effect at the time the claim is filed.

687 (b) A public adjuster may not restrict or prevent an
688 insurer, company employee adjuster, independent adjuster,
689 attorney, investigator, or other person acting on behalf of the
690 insurer from having reasonable access at reasonable times to any
691 insured or claimant or to the insured property that is the
692 subject of a claim.

693 (c) A public adjuster may not act or fail to reasonably act
694 in any manner that obstructs or prevents an insurer or insurer's
695 adjuster from timely conducting an inspection of any part of the
696 insured property for which there is a claim for loss or damage.
697 The public adjuster representing the insureds may be present for
698 the insurer's inspection, but if the unavailability of the
699 public adjuster otherwise delays the insurer's timely inspection
700 of the property, the public adjuster or the insureds must allow
701 the insurer to have access to the property without the
702 participation or presence of the public adjuster or insureds in
703 order to facilitate the insurer's prompt inspection of the loss
704 or damage.

705 (16) A licensed contractor under part I of chapter 489, or
706 a subcontractor of such licensee, may not advertise, solicit,
707 offer to handle, handle, or perform public adjuster services as



708 provided in subsection (1) unless licensed and compliant as a
709 public adjuster under this chapter. The prohibition against
710 solicitation does not preclude a contractor from suggesting or
711 otherwise recommending to a consumer that the consumer consider
712 contacting his or her insurer to determine if the proposed
713 repair is covered under the consumer's insurance policy, except
714 as it relates to solicitation prohibited in s. 489.147. In
715 addition, the contractor may discuss or explain a bid for
716 construction or repair of covered property with the residential
717 property owner who has suffered loss or damage covered by a
718 property insurance policy, or the insurer of such property, if
719 the contractor is doing so for the usual and customary fees
720 applicable to the work to be performed as stated in the contract
721 between the contractor and the insured.

722 (17) A public adjuster shall not acquire any interest in
723 salvaged property, except with the written consent and
724 permission of the insured through a signed affidavit.

725 (18) A public adjuster, a public adjuster apprentice, or a
726 person acting on behalf of an adjuster or apprentice may not
727 enter into a contract or accept a power of attorney that vests
728 in the public adjuster, the public adjuster apprentice, or the
729 person acting on behalf of the adjuster or apprentice the
730 effective authority to choose the persons or entities that will
731 perform repair work in a property insurance claim or provide
732 goods or services that will require the insured or third-party
733 claimant to expend funds in excess of those payable to the
734 public adjuster under the terms of the contract for adjusting
735 services.

736 (19) Subsections (5)-(18) apply only to residential



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737 property insurance policies and condominium unit owner policies
738 as described in s. 718.111(11), except that subsection (11) also
739 applies to coverages provided by condominium association,
740 cooperative association, apartment building, and similar
741 policies, including policies covering the common elements of a
742 homeowners' association.

743 Section 11. Subsection (2) of section 626.8796, Florida
744 Statutes, is amended to read:

745 626.8796 Public adjuster contracts; disclosure statement;
746 fraud statement.—

747 (2) A public adjuster contract relating to a property and
748 casualty claim must contain the full name, permanent business
749 address, phone number, e-mail address, and license number of the
750 public adjuster; the full name and license number of the public
751 adjusting firm; and the insured's full name, street address,
752 phone number, and e-mail address, together with a brief
753 description of the loss. The contract must state the percentage
754 of compensation for the public adjuster's services in minimum
755 18-point bold type before the space reserved in the contract for
756 the signature of the insured; the type of claim, including an
757 emergency claim, nonemergency claim, or supplemental claim; the
758 initials of the named insured on each page that does not contain
759 the insured's signature; the signatures of the public adjuster
760 and all named insureds; and the signature date. If all of the
761 named insureds' signatures are not available, the public
762 adjuster must submit an affidavit signed by the available named
763 insureds attesting that they have authority to enter into the
764 contract and settle all claim issues on behalf of the named
765 insureds. An unaltered copy of the executed contract must be



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766 remitted to the insured at the time of execution and to the
767 insurer, or the insurer's representative within 7 days after
768 execution. A public adjusting firm that adjusts claims primarily
769 for commercial entities with operations in more than one state
770 and that does not directly or indirectly perform adjusting
771 services for insurers or individual homeowners is deemed to
772 comply with the requirements of this subsection if, at the time
773 a proof of loss is submitted, the public adjusting firm remits
774 to the insurer an affidavit signed by the public adjuster or
775 public adjuster apprentice that identifies:

776 (a) The full name, permanent business address, phone
777 number, e-mail address, and license number of the public
778 adjuster or public adjuster apprentice.

779 (b) The full name of the public adjusting firm.

780 (c) The insured's full name, street address, phone number,
781 and e-mail address, together with a brief description of the
782 loss.

783 (d) An attestation that the compensation for public
784 adjusting services will not exceed the limitations provided by
785 law.

786 (e) The type of claim, including an emergency claim,
787 nonemergency claim, or supplemental claim.

788 Section 12. Subsection (2) of section 627.43141, Florida
789 Statutes, is amended to read:

790 627.43141 Notice of change in policy terms.—

791 (2) A renewal policy may contain a change in policy terms.
792 If such change occurs, the insurer shall give the named insured
793 advance written notice summarizing the change, which may be
794 enclosed along with the written notice of renewal premium



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795 required under ss. 627.4133 and 627.728 or sent separately
796 within the timeframe required under the Florida Insurance Code
797 for the provision of a notice of nonrenewal to the named insured
798 for that line of insurance. The insurer must also provide a
799 sample copy of the notice to the named insured's insurance agent
800 before or at the same time that notice is provided to the named
801 insured. Such notice shall be entitled "Notice of Change in
802 Policy Terms." Beginning January 1, 2025, the "Notice of Change
803 in Policy Terms" shall be in bold type of not less than 14
804 points and included as a single page or consecutive pages, as
805 necessary, within the written notice.

806 Section 13. Section 627.6426, Florida Statutes, is amended
807 to read:

808 627.6426 Short-term health insurance.—

809 (1) For purposes of this part, the term "short-term health
810 insurance" means health insurance coverage provided by an issuer
811 with an expiration date specified in the contract that is less
812 than 12 months after the original effective date of the contract
813 and, taking into account renewals or extensions, has a duration
814 not to exceed 36 months in total.

815 (2) All contracts for short-term health insurance entered
816 into by an issuer and an individual seeking coverage must ~~shall~~
817 include the following written disclosures signed by the
818 purchaser at the time of purchase ~~disclosure~~:

819 (a) The following statement:

820
821 "This coverage is not required to comply with certain
822 federal market requirements for health insurance,
823 principally those contained in the Patient Protection



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824 and Affordable Care Act. Be sure to check your policy
825 carefully to make sure you are aware of any exclusions
826 or limitations regarding coverage of preexisting
827 conditions or health benefits (such as
828 hospitalization, emergency services, maternity care,
829 preventive care, prescription drugs, and mental health
830 and substance use disorder services). Your policy
831 might also have lifetime and/or annual dollar limits
832 on health benefits. If this coverage expires or you
833 lose eligibility for this coverage, you might have to
834 wait until an open enrollment period to get other
835 health insurance coverage.”

836
837 (b) The following information:

838 1. The duration of the contract, including any waiting
839 period.

840 2. Any essential health benefit under 42 U.S.C. s. 18022(b)
841 that the contract does not provide.

842 3. The content of coverage.

843 4. Any exclusion of preexisting conditions.

844 (3) The disclosures must be printed in no less than 12-
845 point type and in a color that is easily readable. A copy of the
846 signed disclosures must be maintained by the issuer for a period
847 of 5 years after the date of purchase.

848 (4) Disclosures provided by electronic means must meet the
849 requirements of subsection (2).

850 Section 14. Present subsection (4) of section 627.70132,
851 Florida Statutes, is redesignated as subsection (5), and a new
852 subsection (4) is added to that section, to read:



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853 627.70132 Notice of property insurance claim.-

854 (4) A notice of claim for loss assessment coverage under s.
855 627.714 must be given to the insurer within 90 days after the
856 date on which the condominium association or its governing board
857 votes to levy an assessment to cover a shortfall in reserves due
858 to a covered loss. Such vote by the association or its governing
859 board must have occurred within 33 months after the date of the
860 loss that created the need for the assessment.

861 Section 15. Section 791.012, Florida Statutes, is amended
862 to read:

863 791.012 Minimum fireworks safety standards.-The outdoor
864 display of fireworks in this state shall be governed by the
865 National Fire Protection Association (NFPA) 1123, Code for
866 Fireworks Display, 2018 ~~1995~~ Edition, ~~approved by the American~~
867 ~~National Standards Institute~~. Any state, county, or municipal
868 law, rule, or ordinance may provide for more stringent
869 regulations for the outdoor display of fireworks, but in no
870 event may any such law, rule, or ordinance provide for less
871 stringent regulations for the outdoor display of fireworks. The
872 division shall promulgate rules to carry out the provisions of
873 this section. The Code for Fireworks Display shall not govern
874 the display of any fireworks on private, residential property
875 and shall not govern the display of those items included under
876 s. 791.01(4) (b) and (c) and authorized for sale thereunder.

877 Section 16. This act shall take effect July 1, 2024.

878
879 ===== T I T L E A M E N D M E N T =====

880 And the title is amended as follows:

881 Delete everything before the enacting clause



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882 and insert:

883 A bill to be entitled
884 An act relating to consumer protection; amending
885 45.032, F.S.; defining the term "nonprofit
886 organization"; requiring certain persons to disclose
887 to the court certain fees to be paid to himself or
888 herself; prohibiting such persons from charging the
889 owner of record more than a specified amount;
890 requiring the court to hold certain claims invalid;
891 providing that any nonprofit organization has
892 unconditional standing in certain matters; providing
893 that a nonprofit organization is entitled to certain
894 fees and costs under certain circumstances; making a
895 technical change; amending s. 45.033, F.S.; revising
896 the circumstances in which a transferee or assignee is
897 entitled to surplus funds or a portion or percentage
898 of surplus funds; providing that certain voluntary
899 transfers or assignments are invalid and void;
900 amending s. 197.582, F.S.; requiring the clerk, within
901 a specified timeframe, to file an interpleader action
902 under certain circumstances; revising the
903 circumstances when the clerk may file an interpleader
904 action; prohibiting a property owner from transferring
905 or assigning its interest in surplus funds to any
906 party; providing an exception; providing that certain
907 transfers or assignments are invalid; requiring
908 certain persons to disclose to the court certain fees
909 to be paid to himself or herself; prohibiting such
910 persons from charging the owner of record more than a



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911 specified amount; providing that a nonprofit
912 organization has unconditional standing in certain
913 matters; providing that a nonprofit organization is
914 entitled to certain fees and costs under certain
915 circumstances; making a technical change; amending s.
916 212.134, F.S.; defining terms; revising requirements
917 for payment settlement entities, or their electronic
918 payment facilitators or contracted third parties, in
919 submitting information returns to the Department of
920 Revenue; specifying requirements for third party
921 settlement organizations that conduct certain
922 transactions; providing applicability; creating s.
923 286.312, F.S.; prohibiting agencies from entering into
924 certain contracts or agreements; amending s. 319.261,
925 F.S.; requiring the department to retire the title to
926 a mobile home under certain circumstances; making
927 technical changes; amending s. 489.147, F.S.;
928 authorizing an insured or claimant to cancel a
929 contract to replace or repair a rook without penalty
930 or obligation under certain circumstances; defining
931 the term "official start date"; requiring certain
932 contractors to include certain language in contracts
933 executed at a specified time; requiring an insured or
934 claimant to send a notice of cancellation under
935 certain circumstances; amending s. 559.9611, F.S.;
936 revising the definition of the term "depository
937 institution"; amending s. 624.424, F.S.; providing
938 requirements for certain insurers' accountants;
939 amending s. 626.854, F.S.; revising applicability of



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940 provisions relating to public adjusters; amending s.
941 626.8796, F.S.; revising the content of certain public
942 adjuster contracts; amending s. 627.43141, F.S.;
943 specifying requirements, after a specified date, for
944 certain notices regarding a change in policy terms;
945 amending s. 627.6426, F.S.; revising the disclosure
946 requirements of contracts for short-term health
947 insurance; amending s. 627.70132, F.S.; requiring a
948 condominium association to give a notice of claim for
949 loss assessment coverage to its insurer by a certain
950 date; amending s. 791.012, F.S.; updating the source
951 of the code for outdoor display of fireworks;
952 providing an effective date.