

By the Committees on Rules; Judiciary; and Banking and Insurance; and Senator Burton

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1                                   A bill to be entitled  
2       An act relating to consumer protection; amending s.  
3       212.134, F.S.; defining terms; revising requirements  
4       for payment settlement entities, or their electronic  
5       payment facilitators or contracted third parties, in  
6       submitting information returns to the Department of  
7       Revenue; specifying requirements for third party  
8       settlement organizations that conduct certain  
9       transactions; providing applicability; amending s.  
10      489.147, F.S.; defining the term "residential property  
11      owner"; authorizing a residential property owner to  
12      cancel a contract to replace or repair a roof without  
13      penalty or obligation under certain circumstances;  
14      defining the term "official start date"; requiring  
15      certain contractors to include certain language in  
16      contracts executed at a specified time; requiring the  
17      residential property owner to send a notice of  
18      cancellation in a certain manner; amending s.  
19      559.9611, F.S.; revising the definition of the term  
20      "depository institution"; amending s. 624.424, F.S.;  
21      providing requirements for certain insurers'  
22      accountants; amending s. 626.8796, F.S.; revising the  
23      content of certain public adjuster contracts; amending  
24      s. 627.43141, F.S.; specifying requirements, which  
25      apply as of a specified date, for certain notices  
26      regarding a change in policy terms; amending s.  
27      627.6426, F.S.; revising the disclosure requirements  
28      of contracts for short-term health insurance; amending  
29      s. 627.70132, F.S.; prohibiting a notice of claim for

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30 loss assessment coverage from occurring later than a  
31 specified date; requiring that such notice be provided  
32 to an insurer no later than a specified date; amending  
33 s. 791.01, F.S.; revising the definition of the term  
34 "fireworks"; amending s. 791.012, F.S.; updating the  
35 source of the code for outdoor display of fireworks;  
36 providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 212.134, Florida Statutes, is amended to  
41 read:

42 212.134 Information returns relating to payment-card and  
43 third party ~~third-party~~ network transactions.—

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

45 (a) "Participating payee" has the same meaning as in s.  
46 6050W of the Internal Revenue Code.

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

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

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

53 (2) For each year in which a payment settlement entity, an  
54 electronic payment facilitator, or other third party contracted  
55 with the payment settlement entity to make payments to settle  
56 reportable payment transactions on behalf of the payment  
57 settlement entity must file a return pursuant to s. 6050W of the  
58 Internal Revenue Code, for participating payees with an address

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59 in this state, the entity, the facilitator, or the third party  
60 must submit the information in the return to the department by  
61 the 30th day after filing the federal return. The format of the  
62 information returns required must be either a copy of such  
63 information returns or a copy of such information returns  
64 related to participating payees with an address in the state.  
65 For purposes of this subsection, the term "payment settlement  
66 entity" has the same meaning as provided in s. 6050W of the  
67 Internal Revenue Code.

68 ~~(3)(2)~~ All reports of returns submitted to the department  
69 under this section must be in an electronic format.

70 ~~(4)(3)~~ Any payment settlement entity, facilitator, or third  
71 party failing to file the information return required, filing an  
72 incomplete information return, or not filing an information  
73 return within the time prescribed is subject to a penalty of  
74 \$1,000 for each failure, if the failure is for not more than 30  
75 days, with an additional \$1,000 for each month or fraction of a  
76 month during which each failure continues. The total amount of  
77 penalty imposed on a reporting entity may not exceed \$10,000  
78 annually.

79 ~~(5)(4)~~ The executive director or his or her designee may  
80 waive the penalty if he or she determines that the failure to  
81 timely file an information return was due to reasonable cause  
82 and not due to willful negligence, willful neglect, or fraud.

83 (6) All third party settlement organizations that conduct  
84 transactions involving a participating payee with an address in  
85 this state and that have a contractual obligation with such  
86 participating payee to make payment to them shall create a  
87 mechanism for senders of payments to identify whether a payment

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88 to a payee is for goods and services or is personal. The  
89 mechanism must clearly indicate the sender's requirement to  
90 indicate the appropriate transaction type. The sender of the  
91 payment is responsible for indicating the appropriate  
92 transaction type. All third party settlement organizations shall  
93 maintain records that clearly identify whether a transaction, as  
94 designated by the sender of the payment, is a transaction for  
95 goods and services or is personal. The information in the return  
96 submitted to the department under subsection (2) for such  
97 entities must be limited to transactions for goods and services.

98 (7) Notwithstanding this section, subsection (6) does not  
99 apply to a third party settlement organization if a contractual  
100 agreement or arrangement to provide a third party payment  
101 network to a participating payee requires the third party  
102 settlement organization solely to settle third party network  
103 transactions for the provision of goods and services.

104 Section 2. Section 489.147, Florida Statutes, is amended to  
105 read:

106 489.147 Prohibited property insurance practices; contract  
107 requirements.—

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

109 (a) "Prohibited advertisement" means any written or  
110 electronic communication by a contractor which encourages,  
111 instructs, or induces a consumer to contact a contractor or  
112 public adjuster for the purpose of making an insurance claim for  
113 roof damage, if such communication does not state in a font size  
114 of at least 12 points and at least half as large as the largest  
115 font size used in the communication that:

116 1. The consumer is responsible for payment of any insurance

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117 deductible;

118 2. It is insurance fraud punishable as a felony of the  
119 third degree for a contractor to knowingly or willfully, and  
120 with intent to injure, defraud, or deceive, pay, waive, or  
121 rebate all or part of an insurance deductible applicable to  
122 payment to the contractor for repairs to a property covered by a  
123 property insurance policy; and

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

127  
128 The term includes, but is not limited to, door hangers, business  
129 cards, magnets, flyers, pamphlets, and e-mails.

130 (b) "Residential property owner" means the person who holds  
131 the legal title to the residential real property that is subject  
132 of and directly impacted by the action of a governmental entity.  
133 The term does not include a governmental entity.

134 (c) "Soliciting" means contacting:

- 135 1. In person;
- 136 2. By electronic means, including, but not limited to, e-  
137 mail, telephone, and any other real-time communication directed  
138 to a specific person; or
- 139 3. By delivery to a specific person.

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

142 (a) Soliciting a residential property owner by means of a  
143 prohibited advertisement.

144 (b) Offering to a residential property owner a rebate,  
145 gift, gift card, cash, coupon, waiver of any insurance

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146 deductible, or any other thing of value in exchange for:

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

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

151 (c) Offering, delivering, receiving, or accepting any  
152 compensation, inducement, or reward, for the referral of any  
153 services for which property insurance proceeds are payable.  
154 Payment by the residential property owner or insurance company  
155 to a contractor for roofing services rendered does not  
156 constitute compensation for a referral.

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

162 (e) Providing an insured with an agreement authorizing  
163 repairs without providing a good faith estimate of the itemized  
164 and detailed cost of services and materials for repairs  
165 undertaken pursuant to a property insurance claim. A contractor  
166 does not violate this paragraph if, as a result of the process  
167 of the insurer adjusting a claim, the actual cost of repairs  
168 differs from the initial estimate.

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

173 (4) For the purposes of this section:

174 (a) The acts of any person on behalf of a contractor,

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175 including, but not limited to, the acts of a compensated  
176 employee or a nonemployee who is compensated for soliciting,  
177 shall be considered the actions of the contractor.

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

183 (5) A contractor may not execute a contract with a  
184 residential property owner to repair or replace a roof without  
185 including a notice that the contractor may not engage in the  
186 practices set forth in paragraph (2)(b). If the contractor fails  
187 to include such notice, the residential property owner may void  
188 the contract within 10 days after executing it.

189 (6) (a) A residential property owner may cancel a contract  
190 to replace or repair a roof without penalty or obligation within  
191 10 days after the execution of the contract or by the official  
192 start date, whichever comes first, if the contract was entered  
193 into based on events that are the subject of a declaration of a  
194 state of emergency by the Governor. For the purposes of this  
195 subsection, the term "official start date" means the date on  
196 which work that includes the installation of materials that will  
197 be included in the final work on the roof commences, a final  
198 permit has been issued, or a temporary repair to the roof  
199 covering or roof has been made in compliance with the Florida  
200 Building Code.

201 (b) A contractor executing a contract during a declaration  
202 of a state of emergency to replace or repair a roof of a  
203 residential property must include or add as an attachment to the

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204 contract the following language, in bold type of not less than  
205 18 points, immediately before a space reserved for the signature  
206 of the residential property owner:

207  
208 You, the residential property owner, may cancel this  
209 contract without penalty or obligation within 10 days  
210 after the execution of the contract or by the official  
211 start date, whichever comes first, because this  
212 contract was entered into during a declaration of a  
213 state of emergency by the Governor. The official start  
214 date is the date on which work that includes the  
215 installation of materials that will be included in the  
216 final work on the roof commences, a final permit has  
217 been issued, or a temporary repair to the roof  
218 covering or roof system has been made in compliance  
219 with the Florida Building Code.

220  
221 (c) The residential property owner must send the notice of  
222 cancellation by certified mail, return receipt requested, or  
223 other form of mailing that provides proof thereof, at the  
224 address specified in the contract.

225 Section 3. Subsection (9) of section 559.9611, Florida  
226 Statutes, is amended to read:

227 559.9611 Definitions.—As used in this part, the term:

228 (9) "Depository institution" means a bank, a credit union,  
229 a savings bank, a savings and loan association, a savings or  
230 thrift association, or an industrial loan company doing business  
231 under the authority of a charter issued by the United States,  
232 this state, or any other state, district, territory, or



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233 commonwealth of the United States which is authorized to  
234 transact business in this state and whose deposits or share  
235 accounts are insured by the Federal Deposit Insurance  
236 Corporation or the National Credit Union Share Insurance Fund  
237 ~~Florida state chartered bank, savings bank, credit union, or~~  
238 ~~trust company, or a federal savings or thrift association, bank,~~  
239 ~~credit union, savings bank, or thrift.~~

240 Section 4. Paragraph (d) of subsection (8) of section  
241 624.424, Florida Statutes, is amended to read:

242 624.424 Annual statement and other information.-

243 (8)

244 (d) Upon creation of continuing education required under  
245 this paragraph, the certified public accountant who prepares the  
246 audit must be licensed to practice pursuant to chapter 473 and  
247 must have completed at least 4 hours of insurance-related  
248 continuing education during each 2-year continuing education  
249 cycle. An insurer may not use the same accountant or partner of  
250 an accounting firm responsible for preparing the report required  
251 by this subsection for more than 5 consecutive years. Following  
252 this period, the insurer may not use such accountant or partner  
253 for a period of 5 years, but may use another accountant or  
254 partner of the same firm. An insurer may request the office to  
255 waive this prohibition based upon an unusual hardship to the  
256 insurer and a determination that the accountant is exercising  
257 independent judgment that is not unduly influenced by the  
258 insurer considering such factors as the number of partners,  
259 expertise of the partners or the number of insurance clients of  
260 the accounting firm; the premium volume of the insurer; and the  
261 number of jurisdictions in which the insurer transacts business.

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262 Section 5. Subsection (2) of section 626.8796, Florida  
263 Statutes, is amended to read:

264 626.8796 Public adjuster contracts; disclosure statement;  
265 fraud statement.—

266 (2) A public adjuster contract relating to a property and  
267 casualty claim must contain the full name, permanent business  
268 address, phone number, e-mail address, and license number of the  
269 public adjuster; the full name and license number of the public  
270 adjusting firm; and the insured's full name, street address,  
271 phone number, and e-mail address, together with a brief  
272 description of the loss. The contract must state the percentage  
273 of compensation for the public adjuster's services in minimum  
274 18-point bold type before the space reserved in the contract for  
275 the signature of the insured; the type of claim, including an  
276 emergency claim, nonemergency claim, or supplemental claim; the  
277 initials of the named insured on each page that does not contain  
278 the insured's signature; the signatures of the public adjuster  
279 and all named insureds; and the signature date. If all of the  
280 named insureds' signatures are not available, the public  
281 adjuster must submit an affidavit signed by the available named  
282 insureds attesting that they have authority to enter into the  
283 contract and settle all claim issues on behalf of the named  
284 insureds. An unaltered copy of the executed contract must be  
285 remitted to the insured at the time of execution and to the  
286 insurer, or the insurer's representative within 7 days after  
287 execution. A public adjusting firm that adjusts claims primarily  
288 for commercial entities with operations in more than one state  
289 and that does not directly or indirectly perform adjusting  
290 services for insurers or individual homeowners is deemed to

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291 comply with the requirements of this subsection if, at the time  
292 a proof of loss is submitted, the public adjusting firm remits  
293 to the insurer an affidavit signed by the public adjuster or  
294 public adjuster apprentice that identifies:

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

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

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

302 (d) An attestation that the compensation for public  
303 adjusting services will not exceed the limitations provided by  
304 law.

305 (e) The type of claim, including an emergency claim,  
306 nonemergency claim, or supplemental claim.

307 Section 6. Subsection (2) of section 627.43141, Florida  
308 Statutes, is amended to read:

309 627.43141 Notice of change in policy terms.—

310 (2) A renewal policy may contain a change in policy terms.  
311 If such change occurs, the insurer shall give the named insured  
312 advance written notice summarizing the change, which may be  
313 enclosed along with the written notice of renewal premium  
314 required under ss. 627.4133 and 627.728 or sent separately  
315 within the timeframe required under the Florida Insurance Code  
316 for the provision of a notice of nonrenewal to the named insured  
317 for that line of insurance. The insurer must also provide a  
318 sample copy of the notice to the named insured's insurance agent  
319 before or at the same time that notice is provided to the named

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320 insured. Such notice shall be entitled "Notice of Change in  
321 Policy Terms." Beginning January 1, 2025, the notice shall be in  
322 bold type of not less than 14 points and included as a single  
323 page or consecutive pages, as necessary, within the written  
324 notice.

325 Section 7. Section 627.6426, Florida Statutes, is amended  
326 to read:

327 627.6426 Short-term health insurance.-

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

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

338 (a) The following statement:

339

340 "This coverage is not required to comply with certain  
341 federal market requirements for health insurance,  
342 principally those contained in the Patient Protection  
343 and Affordable Care Act. Be sure to check your policy  
344 carefully to make sure you are aware of any exclusions  
345 or limitations regarding coverage of preexisting  
346 conditions or health benefits (such as  
347 hospitalization, emergency services, maternity care,  
348 preventive care, prescription drugs, and mental health

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349 and substance use disorder services). Your policy  
350 might also have lifetime and/or annual dollar limits  
351 on health benefits. If this coverage expires or you  
352 lose eligibility for this coverage, you might have to  
353 wait until an open enrollment period to get other  
354 health insurance coverage.”

355

356 (b) The following information:

357 1. The duration of the contract, including any waiting  
358 period.

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

361 3. The content of coverage.

362 4. Any exclusion of preexisting conditions.

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

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

369 Section 8. Present subsection (4) of section 627.70132,  
370 Florida Statutes, is redesignated as subsection (5), and a new  
371 subsection (4) is added to that section, to read:

372 627.70132 Notice of property insurance claim.—

373 (4) (a) A notice of claim for loss assessment coverage under  
374 s. 627.714 may not occur later than 3 years after the date of  
375 loss and must be provided to the insurer the later of:

376 1. Within 1 year after the date of loss; or

377 2. Within 90 days after the date on which the condominium

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378 association or its governing board votes to levy an assessment  
379 resulting from a covered loss.

380 (b) For purposes of this subsection, the date of loss is  
381 the date of the covered loss event that created the need for an  
382 assessment.

383 Section 9. Paragraph (a) of subsection (4) of section  
384 791.01, Florida Statutes, is amended to read:

385 791.01 Definitions.—As used in this chapter, the term:

386 (4) (a) "Fireworks" means and includes any combustible or  
387 explosive composition or substance or combination of substances  
388 or, except as hereinafter provided, any article prepared for the  
389 purpose of producing a visible or audible effect by combustion,  
390 explosion, deflagration, or detonation. The term includes blank  
391 cartridges and toy cannons in which explosives are used, the  
392 type of balloons which require fire underneath to propel them,  
393 firecrackers, torpedoes, skyrockets, roman candles, ~~dag~~ ~~bombs~~,  
394 and any fireworks containing any explosives or flammable  
395 compound or any tablets or other device containing any explosive  
396 substance.

397 Section 10. Section 791.012, Florida Statutes, is amended  
398 to read:

399 791.012 Minimum fireworks safety standards.—The outdoor  
400 display of fireworks in this state shall be governed by the  
401 National Fire Protection Association (NFPA) 1123, Code for  
402 Fireworks Display, 2018 ~~1995~~ Edition, ~~approved by the American~~  
403 ~~National Standards Institute~~. Any state, county, or municipal  
404 law, rule, or ordinance may provide for more stringent  
405 regulations for the outdoor display of fireworks, but in no  
406 event may any such law, rule, or ordinance provide for less

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407 stringent regulations for the outdoor display of fireworks. The  
408 division shall promulgate rules to carry out the provisions of  
409 this section. The Code for Fireworks Display shall not govern  
410 the display of any fireworks on private, residential property  
411 and shall not govern the display of those items included under  
412 s. 791.01(4)(b) and (c) and authorized for sale thereunder.

413 Section 11. This act shall take effect July 1, 2024.