

1                   A bill to be entitled  
2           An act relating to the resolution of disputed property  
3           insurance claims; amending s. 627.7015, F.S.;  
4           requiring, rather than authorizing, parties to a  
5           property insurance claims dispute to participate in  
6           mediation; providing that mediation is a condition  
7           precedent to commencing litigation; deleting  
8           provisions relating to the eligibility of claims for  
9           mediation; providing that the parties may mutually  
10          agree to conduct the mediation by teleconference or by  
11          telephone; requiring all insureds, or a representative  
12          thereof, to personally attend the mediation; revising  
13          and specifying duties as to bearing certain costs of  
14          mediation; requiring, rather than authorizing, the  
15          Department of Financial Services to adopt certain  
16          rules; authorizing the department to adopt certain  
17          emergency rules; requiring the policyholder to provide  
18          the insurer with certain documents within a certain  
19          timeframe after mediation is invoked; revising  
20          conditions under which a policyholder has a certain  
21          timeframe to rescind a settlement; revising the  
22          definition of the term "claim"; providing and revising  
23          construction; amending s. 627.7074, F.S.; conforming a  
24          provision to changes made by the act; providing an  
25          appropriation; providing effective dates.

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

Section 1. Section 627.7015, Florida Statutes, is amended to read:

627.7015 Mandatory mediation ~~Alternative procedure~~ for resolution of disputed property insurance claims.—

(1) This section sets forth a nonadversarial ~~alternative~~ dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, nonthreatening forum for helping parties ~~who elect this procedure~~ to resolve their claims disputes because most homeowner and commercial residential insurance policies obligate policyholders to participate in a potentially expensive and time-consuming adversarial appraisal process before litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, policyholders and insurers are encouraged to resolve claims as quickly and fairly as possible. This section applies ~~is available with respect~~ to claims under personal lines and commercial residential policies before commencing the appraisal process and is a condition precedent to, ~~or before~~ commencing

51 litigation. ~~Mediation may be requested only by the policyholder,~~  
52 ~~as a first-party claimant, a third-party, as an assignee of the~~  
53 ~~policy benefits, or the insurer.~~ However, an insurer is not  
54 required to participate in any mediation requested by a third-  
55 party assignee of the policy benefits. ~~If requested by the~~  
56 ~~policyholder,~~ Participation by legal counsel is permitted.  
57 Mediation under this section is also required of ~~available to~~  
58 litigants referred to the department by a county court or  
59 circuit court. This section does not apply to commercial  
60 coverages, to private passenger motor vehicle insurance  
61 coverages, or to disputes relating to liability coverages in  
62 policies of property insurance.

63 (2) At the time of issuance and renewal of a policy or at  
64 the time a first-party claim within the scope of this section is  
65 filed by the policyholder, the insurer shall notify the  
66 policyholder of ~~its right to participate in the~~ mandatory  
67 mediation program under this section. ~~A claim becomes eligible~~  
68 ~~for mediation after the insurer complies with s. 627.70131(7) or~~  
69 ~~elects to reinspect pursuant to s. 627.70152(4)(a)3. If the~~  
70 ~~insurer has not complied with s. 627.70131(7) or elected to~~  
71 ~~reinspect pursuant to s. 627.70152(4)(a)3. within 90 days after~~  
72 ~~notice of the loss, the insurer may not require mediation under~~  
73 ~~this section. This subsection does not impair the right of an~~  
74 ~~insurance company to request mediation after a determination of~~  
75 ~~coverage pursuant to this section or require appraisal or~~

76 ~~another method of alternative dispute resolution pursuant to s.~~  
 77 ~~627.70152(4)(b).~~ The department shall prepare a consumer  
 78 information pamphlet for distribution to persons participating  
 79 in mediation.

80 (3) If the parties mutually agree, mediation may be  
 81 conducted by teleconference or by telephone in lieu of appearing  
 82 in person. All named insureds, or a representative thereof, must  
 83 personally attend the mediation, regardless of how it is  
 84 conducted. The costs of mediation must be reasonable, and the  
 85 insurer must bear all of the cost of conducting mediation  
 86 conferences, except as otherwise provided in this section. If a  
 87 named insured or his or her representative ~~policyholder~~ fails to  
 88 appear at the conference, thus preventing the mediation from  
 89 proceeding, the conference must be rescheduled upon the  
 90 policyholder's payment of the costs of a rescheduled conference.  
 91 If the insurer fails to appear at the conference, the insurer  
 92 must pay the policyholder's actual cash expenses incurred in  
 93 attending the conference if the insurer's failure to attend was  
 94 not due to a good cause acceptable to the department. An insurer  
 95 is ~~will be~~ deemed to have failed to appear if the insurer's  
 96 representative lacks authority to settle the full value of the  
 97 claim. The insurer shall incur an additional fee for a  
 98 rescheduled conference necessitated by the insurer's failure to  
 99 appear at a scheduled conference. The fees assessed by the  
 100 department must include a charge necessary to defray the

101 expenses of the department related to its duties under this  
 102 section and must be deposited in the Insurance Regulatory Trust  
 103 Fund. The department may suspend the insurer's authority to  
 104 appoint licensees if the insurer does not timely pay the  
 105 required fees. If a party elects to request an expert or a  
 106 representative to attend the mediation, that party must bear any  
 107 costs for the attendance of the expert or representative.

108 (4) The department shall adopt by rule a property  
 109 insurance mediation program to be administered by the department  
 110 or its designee. The department shall ~~may~~ also adopt special  
 111 rules that ~~which~~ are applicable in cases of an emergency within  
 112 this the state, including emergency rules as necessary to  
 113 establish physical addresses for the mediation program in areas  
 114 affected by natural disasters. The rules shall be modeled after  
 115 practices and procedures set forth in mediation rules of  
 116 procedure adopted by the Supreme Court. The rules shall provide  
 117 for:

118 (a) Reasonable requirements ~~requirement~~ for processing and  
 119 scheduling of requests for mediation.

120 (b) Qualifications and,~~7~~ denial of application, suspension,  
 121 revocation of approval, and other penalties for mediators as  
 122 provided in s. 627.745 and the Florida Rules for Certified and  
 123 Court-Appointed Mediators.

124 (c) Provisions governing who may attend mediation  
 125 conferences.

- 126 (d) Selection of mediators.
- 127 (e) Criteria for the conduct of mediation conferences.
- 128 (f) Right to legal counsel.

129 (5) (a) All statements made and documents produced at a  
 130 mediation conference shall be deemed to be settlement  
 131 negotiations in anticipation of litigation within the scope of  
 132 s. 90.408. All parties to the mediation must negotiate in good  
 133 faith and must have the authority to immediately settle the  
 134 claim. Mediators are deemed to be agents of the department and  
 135 shall have the immunity from suit provided in s. 44.107.

136 (b) Within 10 days after mediation is invoked, the  
 137 policyholder must provide to the insurer any supporting  
 138 documents and information that serve as the basis for the claim.

139 (6) (a) Mediation is nonbinding; however, if a written  
 140 settlement is reached and the policyholder is not represented by  
 141 an attorney or a public adjuster, the policyholder has 3  
 142 business days within which the policyholder may rescind the  
 143 settlement unless the policyholder has cashed or deposited any  
 144 check or draft disbursed to the policyholder for the disputed  
 145 matters as a result of the conference. If a settlement agreement  
 146 is reached and is not rescinded, it is binding and acts as a  
 147 release of all specific claims that were presented in that  
 148 mediation conference.

149 (b) At the conclusion of the mediation, the mediator shall  
 150 provide a written report of the results of mediation, including

151 any settlement amount, to the insurer, the policyholder, and the  
 152 policyholder's representative if the policyholder is represented  
 153 at the mediation.

154 (7) If the insurer fails to comply with subsection (2) by  
 155 failing to notify a policyholder of ~~its right to participate in~~  
 156 the mediation program under this section or if ~~the insurer~~  
 157 ~~requests the mediation,~~ and the mediation results are rejected  
 158 by either party, the policyholder is not required to submit to  
 159 or participate in any contractual loss appraisal process of the  
 160 property loss damage as a precondition to legal action for  
 161 breach of contract against the insurer for its failure to pay  
 162 the policyholder's claims covered by the policy.

163 (8) The department may designate an entity or person to  
 164 serve as administrator to carry out any of the provisions of  
 165 this section and may take this action by means of a written  
 166 contract or agreement.

167 (9) For purposes of this section, the term "claim" refers  
 168 to any dispute between an insurer and a policyholder relating to  
 169 a material issue of fact other than a dispute:

170 (a) With respect to which the insurer has a reasonable  
 171 basis to suspect fraud;

172 (b) When the insurer has determined, ~~based on agreed-upon~~  
 173 ~~facts as to the cause of loss,~~ there is no coverage under the  
 174 policy;

175 (c) With respect to which the insurer has a reasonable

176 basis to believe that the policyholder has intentionally made a  
 177 material misrepresentation of fact which is relevant to the  
 178 claim, and the entire request for payment of a loss has been  
 179 denied on the basis of the material misrepresentation;

180 (d) With respect to which the amount in controversy is  
 181 less than \$500, unless the parties agree to mediate a dispute  
 182 involving a lesser amount; or

183 (e) With respect to a loss that does not comply with s.  
 184 627.70132.

185 (10) Participation in mediation under this section before  
 186 the policyholder's filing of a notice under s. 627.70152 does  
 187 not prohibit or waive an insurer's right to invoke and  
 188 participate in mediation under this section in response to the  
 189 notice.

190 Section 2. Subsection (3) of section 627.7074, Florida  
 191 Statutes, is amended to read:

192 627.7074 Alternative procedure for resolution of disputed  
 193 sinkhole insurance claims.—

194 (3) If there is coverage available under the policy and  
 195 the claim was submitted within the timeframe provided in s.  
 196 627.706(5), following the receipt of the report provided under  
 197 s. 627.7073 or the denial of a claim for a sinkhole loss, the  
 198 insurer shall notify the policyholder of his or her right to  
 199 participate in the neutral evaluation program under this  
 200 section. Neutral evaluation supersedes the mediation ~~alternative~~



HB 1439

2024

201 ~~dispute resolution~~ process under s. 627.7015 but does not  
202 invalidate the appraisal clause of the insurance policy. The  
203 insurer shall provide to the policyholder the consumer  
204 information pamphlet prepared by the department pursuant to  
205 subsection (1) electronically or by United States mail.

206       Section 3. Effective July 1, 2024, for the 2024-2025  
207 fiscal year, the sum of \$1 million in recurring funds is  
208 appropriated from the Insurance Regulatory Trust Fund to the  
209 Department of Financial Services for the purpose of  
210 administering the amendment made by this act to s. 627.7015,  
211 Florida Statutes.

212       Section 4. Except as otherwise expressly provided in this  
213 act and except for this section, which shall take effect July 1,  
214 2024, this act shall take effect January 1, 2025.