

By Senator Truenow

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1 A bill to be entitled
2 An act relating to insurance; amending s. 624.1551,
3 F.S.; clarifying the prohibition related to claims for
4 extracontractual damages; revising construction
5 relating to an adverse adjudication required for
6 certain claims; specifying requirements for a certain
7 notice; requiring that certain damages be available
8 under and pursuant to a specified policy; prohibiting
9 such damages from including certain fees, costs, and
10 damages; prohibiting a certain notice from including
11 certain provisions, demands, or requirements;
12 requiring that applicable statutes of limitations and
13 notice requirements be tolled under certain
14 circumstances; requiring the property insurer to send
15 a specified request within a specified timeframe;
16 requiring that the notice and tolling period be
17 continued under certain circumstances; amending s.
18 626.732, F.S.; revising the requirements for licensing
19 or qualifying general lines agents; amending s.
20 626.878, F.S.; specifying when adjusters must include
21 their appointment type if communicating by text
22 message; prohibiting public adjusters from engaging in
23 certain adversarial conduct; amending s. 627.4108,
24 F.S.; specifying requirements for the claims-handling
25 manual of authorized residential property insurers
26 with active residential policies; amending s.
27 627.4133, F.S.; revising the circumstances under which
28 an insurer or agent may cancel certain policies;
29 amending s. 627.429, F.S.; deleting the definition of

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30 the term "ARC"; authorizing insurers to make certain
 31 inquiries relating to a person's HIV infection or
 32 related diagnoses and medical care that person has
 33 received or is currently receiving; amending s.
 34 627.7011, F.S.; revising the required statement by
 35 insurers issuing an insurance policy that does not
 36 provide flood insurance; amending s. 627.70131, F.S.;
 37 specifying when adjusters must include their name and
 38 license number if communicating by text message;
 39 revising the required statement by insurers providing
 40 a preliminary or partial estimate; revising the
 41 required statement by insurers providing payment on a
 42 claim which is not the full and final payment for the
 43 claim; providing an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Section 624.1551, Florida Statutes, is amended
 48 to read:

49 624.1551 Civil remedy actions against property insurers.—
 50 (1) In addition to s. 624.155(3)(c), but notwithstanding
 51 any provision of s. 624.155 to the contrary, a ~~in any~~ claim for
 52 extracontractual damages under s. 624.155 may not be brought s.
 53 ~~624.155(1)(b), no action shall lie~~ until a named or omnibus
 54 insured or a named beneficiary has established through an
 55 adverse adjudication by a court of law that the property insurer
 56 breached the insurance contract and a final judgment or decree
 57 has been rendered against the insurer. Acceptance of an offer of
 58 judgment or demand for judgment under s. 768.79, corrective

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59 action or payment by the insurer pursuant to a valid notice of
60 intent to litigate filed under s. 627.70152(3), or the payment
61 of an appraisal award does not constitute an adverse
62 adjudication under this section. The difference between an
63 insurer's appraiser's final estimate and the appraisal award may
64 be evidence of bad faith under s. 624.155(1)(b), but is not
65 deemed an adverse adjudication under this section and does not,
66 on its own, give rise to a cause of action.

67 (2) When providing notice under s. 624.155(3), a person
68 bringing a claim for extracontractual damages against a property
69 insurer under this section must, on the form that is provided by
70 and sent only to the department, specify only the statutory
71 provisions allegedly violated as required under s.
72 624.155(3)(b)1. and enumerate the specific facts and
73 circumstances giving rise to each violation as required under s.
74 624.155(3)(b)2. In addition, such person must plainly state in
75 the notice the exact amount of damages needed to cure the
76 violation and must attach to the notice any documentation in
77 support of the amount of damages sought.

78 (3) If any damages sought from the property insurer to cure
79 the alleged violations under s. 624.155(3)(b) are monetary or
80 financial, such damages must be available under and pursuant to
81 the express terms and conditions of the policy, less any amounts
82 previously paid by the insurer, policy sublimits, exclusions,
83 and any applicable policy deductibles. Monetary or financial
84 damages sought by a named or omnibus insured, or a named
85 beneficiary, may not include attorney fees; costs, including,
86 but not limited to, any cost associated with notice exceeding
87 the requirements of s. 624.155(3); extracontractual damages; or

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88 noneconomic damages.

89 (4) A notice filed under s. 624.155(3)(b) by a named or
90 omnibus insured or a named beneficiary seeking economic damages
91 from the property insurer, may not include any nonmonetary
92 provisions, demands, or requirements.

93 (5) In addition to the notice requirements under s.
94 624.155(3)(c) and the tolling requirements under s.
95 624.155(3)(e), the applicable 60-day notice period and the
96 statute of limitations for an action under this section must be
97 tolled for a period of 10 days after receipt of a request from
98 the property insurer to the policyholder or the policyholder's
99 representative for additional information related to the claim.
100 The property insurer must send such request before the
101 expiration of the 60-day notice period under s. 624.155(3)(c)
102 and the tolling period under s. 624.155(3)(e). If the
103 policyholder or the policyholder's representative fails to
104 provide the information requested by the property insurer within
105 10 days after the request was received, the 60-day notice period
106 and the tolling period must continue until the insurer receives
107 the requested information.

108 Section 2. Subsection (1) of section 626.732, Florida
109 Statutes, is amended to read:

110 626.732 Requirement as to knowledge, experience, or
111 instruction.—

112 (1) Except as provided in subsection (4), an applicant for
113 a license as a general lines agent, except for a chartered
114 property and casualty underwriter (CPCU), may not be qualified
115 or licensed unless, within the 4 years immediately preceding the
116 date the application for license is filed with the department,

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117 the applicant has satisfied, at a minimum, one of the following
118 requirements:

119 (a) Taught or successfully completed 60 ~~200~~ hours of
120 coursework in property, casualty, surety, health, and marine
121 insurance approved by the department, 3 hours of which must be
122 on the subject matter of ethics.†

123 (b) Completed at least 1 year in responsible insurance
124 duties as a substantially full-time bona fide employee in all
125 lines of property and casualty insurance as set forth in the
126 definition of a general lines agent under s. 626.015, but
127 without the education requirement described in paragraph (a).†
128 ~~or~~

129 (c) Completed at least 1 year of responsible insurance
130 duties as a licensed and appointed customer representative,
131 service representative, or personal lines agent and 40 hours of
132 coursework approved by the department covering the areas of
133 property, casualty, surety, health, and marine insurance.

134 Section 3. Subsection (2) of section 626.878, Florida
135 Statutes, is amended, and subsection (4) is added to that
136 section, to read:

137 626.878 Rules; code of ethics.—

138 (2) A person licensed as an adjuster must identify himself
139 or herself in any advertisement, solicitation, or written
140 document based on the adjuster appointment type held. However,
141 if the adjuster is communicating with a policyholder by text
142 message, the adjuster's appointment type held is required only
143 in the initial text message and is not required in subsequent
144 text messages.

145 (4) A public adjuster may not engage in any adversarial

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146 conduct with insurance claims personnel during the course of
147 adjusting claims, including, but not limited to, electronically
148 recording insurance company claims personnel and consultants
149 without their consent.

150 Section 4. Subsection (1) of section 627.4108, Florida
151 Statutes, is amended to read:

152 627.4108 Claims-handling manuals; submission; attestation.-

153 (1) Each authorized residential property insurer with
154 active residential policies conducting business in this state
155 must create and use a claims-handling manual that provides
156 guidelines and procedures and that complies with the
157 requirements of this code and, at a minimum, comports to usual
158 and customary industry claims-handling practices. Such manual
159 must include all of the following guidelines and procedures for:

160 (a) Initially receiving and acknowledging initial receipt
161 of the claim and reviewing and evaluating the claim.†

162 (b) Communicating with policyholders, beginning with the
163 receipt of the claim and continuing until closure of the claim.†

164 (c) Setting the claim reserve.†

165 (d) Investigating the claim, including conducting
166 inspections of the property that is the subject of the claim.†

167 (e) Making preliminary estimates and estimates of the
168 covered damages to the insured property and communicating such
169 estimates to the policyholder.†

170 (f) Paying, partially paying, or denying ~~The payment,~~
171 ~~partial payment, or denial~~ of the claim and communicating such
172 claim decision to the policyholder.†

173 (g) Closing claims.† ~~and~~

174 (h) Any aspect of the claims-handling process which the

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175 office determines should be included in the claims-handling
176 manual in order to:

177 1. Comply with the laws of this state or rules or orders of
178 the office or department;

179 2. Ensure that the claims-handling manual, at a minimum,
180 comports with usual and customary industry claims-handling
181 guidelines; or

182 3. Protect policyholders of the insurer or the general
183 public.

184 Section 5. Paragraph (e) of subsection (2) of section
185 627.4133, Florida Statutes, is amended to read:

186 627.4133 Notice of cancellation, nonrenewal, or renewal
187 premium.—

188 (2) With respect to any personal lines or commercial
189 residential property insurance policy, including, but not
190 limited to, any homeowner, mobile home owner, farmowner,
191 condominium association, condominium unit owner, apartment
192 building, or other policy covering a residential structure or
193 its contents:

194 (e)1. An authorized insurer may not cancel or nonrenew a
195 personal residential or commercial residential property
196 insurance policy covering a dwelling or residential property
197 located in this state:

198 a. For a period of 90 days after the dwelling or
199 residential property has been repaired, if such property has
200 been damaged as a result of a hurricane or wind loss that is the
201 subject of the declaration of emergency pursuant to s. 252.36
202 and the filing of an order by the Commissioner of Insurance
203 Regulation.

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204 b. Until the earlier of when the dwelling or residential
205 property has been repaired or 1 year after the insurer issues
206 the final claim payment, if such property was damaged by any
207 covered peril and sub-subparagraph a. does not apply.

208 2. However, an insurer or agent may cancel or nonrenew such
209 a policy before ~~prior to~~ the repair of the dwelling or
210 residential property:

211 a. Upon 10 days' notice for nonpayment of premium; or

212 b. Upon 45 days' notice:

213 (I) For a material misstatement or fraud related to the
214 claim;

215 (II) If the insurer determines that the insured has
216 unreasonably caused a delay in the repair of the dwelling; ~~or~~

217 (III) If the insurer has paid policy limits; or

218 (IV) If the named insured does not have an insurable
219 interest in the insured property.

220 3. If the insurer elects to nonrenew a policy covering a
221 property that has been damaged, the insurer must ~~shall~~ provide
222 at least 90 days' notice to the insured that the insurer intends
223 to nonrenew the policy 90 days after the dwelling or residential
224 property has been repaired. Nothing in this paragraph prevents
225 ~~shall prevent~~ the insurer from canceling or nonrenewing the
226 policy 90 days after the repairs are complete for the same
227 reasons the insurer would otherwise have canceled or nonrenewed
228 the policy but for the limitations of subparagraph 1. The
229 Financial Services Commission may adopt rules, and the
230 Commissioner of Insurance Regulation may issue orders, necessary
231 to implement this paragraph.

232 4. This paragraph ~~shall~~ also applies ~~apply~~ to personal

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233 residential and commercial residential policies covering
 234 property that was damaged as the result of Hurricane Ian or
 235 Hurricane Nicole.

236 5. For purposes of this paragraph:

237 a. A structure is deemed to be repaired when substantially
 238 completed and restored to the extent that it is insurable by
 239 another authorized insurer writing policies in this state.

240 b. The term "insurer" means an authorized insurer.

241 Section 6. Paragraph (b) of subsection (3), paragraph (e)
 242 of subsection (4), and paragraph (d) of subsection (5) of
 243 section 627.429, Florida Statutes, are amended to read:

244 627.429 Medical tests for HIV infection and AIDS for
 245 insurance purposes.—

246 (3) DEFINITIONS.—As used in this section:

247 ~~(b) "ARC" means AIDS-related complex.~~

248 (4) USE OF MEDICAL TESTS FOR UNDERWRITING.—

249 (e) An insurer may inquire whether a person has ~~been~~ tested
 250 positive for ~~exposure to the~~ HIV infection or been diagnosed
 251 with as having ARC or AIDS caused by the HIV infection or any
 252 other sickness or condition derived from such infection. The
 253 insurer may also inquire about the status of such person's HIV
 254 infection or related diagnoses as well as any medical care that
 255 such person has received or is currently receiving, including
 256 any treatment regimen or medication. An insurer may not inquire
 257 whether the person has been tested for or has received a
 258 negative result from a specific test for exposure to the HIV
 259 infection or for a sickness or a medical condition derived from
 260 such infection.

261 (5) RESTRICTIONS ON COVERAGE EXCLUSIONS AND LIMITATIONS.—

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262 (d) Any major medical or comprehensive accident and health
263 policy for which individual underwriting is authorized by law
264 may contain a provision excluding coverage for expenses related
265 to AIDS ~~or ARC~~ if, in the opinion of a legally qualified
266 physician, the insured, prior to the first anniversary of the
267 insured's coverage under the policy, first exhibited objective
268 manifestations of AIDS ~~or ARC~~, as defined by the Centers for
269 Disease Control and Prevention, which objective manifestations
270 are attributable to no other cause or was diagnosed as having
271 AIDS ~~or ARC~~ if all of the following apply:

272 1. The applicant for the policy is not required to submit
273 to any medical test for HIV infection.

274 2. The policy provision:

275 a. Is set forth separately from the other exclusion and
276 limitation provisions of the policy.

277 b. Has an appropriate caption or heading.

278 c. Is disclosed and referenced in a conspicuous manner on
279 the policy data page.

280 d. Contains a statement that the exclusion will not apply
281 to any person if the insurer does not assert the defense before
282 the person has been insured under the policy for 2 years.

283 3. The insurer must notify the insured in writing of a
284 determination that the insured would be subject to the effect of
285 the exclusion within 90 days after the insurer first determines
286 that an insured would be subject to the effect of the exclusion,
287 even if there are no claims for AIDS ~~or ARC~~. Failure to provide
288 timely written notice under this subparagraph bars the insurer
289 from using the exclusion.

290 4. Objective manifestations of AIDS ~~or ARC~~ first exhibited

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291 after the 12-month manifestation period must be covered the same
292 as any other illness.

293 Section 7. Paragraph (b) of subsection (4) of section
294 627.7011, Florida Statutes, is amended to read:

295 627.7011 Homeowners' policies; offer of replacement cost
296 coverage and law and ordinance coverage.—

297 (4)

298 (b) An insurer that issues a homeowner's insurance policy
299 that does not provide flood insurance coverage must include on
300 the policy declarations page at initial issuance and every
301 renewal, in bold type no smaller than 18 points, the following
302 statement:

303

304 **“FLOOD INSURANCE: YOU SHOULD CONSIDER THE PURCHASE OF**
305 **FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY**
306 **DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM**
307 **FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE**
308 **FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE**
309 **COVERAGE, YOUR ~~UNCOVERED~~ LOSSES CAUSED BY FLOOD ARE**
310 **NOT COVERED. PLEASE DISCUSS THE NEED TO PURCHASE**
311 **SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE**
312 **AGENT.”**

313

314 Section 8. Paragraphs (a), (b), and (c) of subsection (3),
315 paragraph (b) of subsection (4), and subsection (6) of section
316 627.70131, Florida Statutes, are amended to read:

317 627.70131 Insurer's duty to acknowledge communications
318 regarding claims; investigation.—

319 (3) (a) Unless otherwise provided by the policy of insurance

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320 or by law, within 7 days after an insurer receives the written
321 proof-of-loss statements, the insurer shall begin such
322 investigation as is reasonably necessary unless the failure to
323 begin such investigation is caused by factors beyond the control
324 of the insurer.

325 (b) If such investigation involves a physical inspection of
326 the property, the licensed adjuster assigned by the insurer must
327 provide the policyholder with a printed or electronic document
328 containing his or her name and state adjuster license number. An
329 insurer must conduct any such physical inspection within 30 days
330 after its receipt of the written proof-of-loss statements.

331 (c) Any subsequent communication with the policyholder
332 regarding the claim must also include the name and license
333 number of the adjuster communicating about the claim. However,
334 when the adjuster communicates with a policyholder by text
335 message, the adjuster's name and license number are required
336 only in the initial text message and are not required in
337 subsequent text messages. Communication of the adjuster's name
338 and license number may be included with other information
339 provided to the policyholder.

340 (4) An insurer shall maintain:

341 (b) Claim records, including dates, of:

342 1. Any claim-related communication made between the insurer
343 and the policyholder or the policyholder's representative;

344 2. The insurer's receipt of the policyholder's written
345 proof-of-loss statement;

346 3. Any claim-related request for information made by the
347 insurer to the policyholder or the policyholder's
348 representative;

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349 4. Any claim-related inspections of the property made by
350 the insurer, including physical inspections and inspections made
351 by electronic means;

352 5. Any detailed estimate of the amount of the loss
353 generated by the insurer's adjuster;

354 6. The beginning and end of any tolling period provided for
355 in subsection (8); and

356 7. The insurer's payment or denial of the claim.

357 (6) (a) When providing a preliminary or partial estimate of
358 damage regarding a claim, an insurer shall include with the
359 estimate the following statement printed in at least 12-point
360 bold, uppercase type: "THIS ESTIMATE REPRESENTS OUR CURRENT
361 EVALUATION OF ~~THE COVERED~~ DAMAGES TO YOUR INSURED PROPERTY AND
362 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
363 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
364 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US."

365 (b) When providing a payment on a claim which is not the
366 full and final payment for the claim, an insurer shall include
367 with the payment the following statement printed in at least 12-
368 point bold, uppercase type: "WE HAVE ISSUED A PARTIAL SETTLEMENT
369 FOR ~~ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING~~ YOUR INSURED
370 PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE
371 QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR
372 CLAIM, WE ENCOURAGE YOU TO CONTACT US."

373 Section 9. This act shall take effect upon becoming a law.