

By Senator Davis

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A bill to be entitled

An act relating to insurance; amending s. 626.112, F.S.; requiring the Department of Financial Services to take immediate enforcement actions under certain circumstances; amending s. 626.2815, F.S.; requiring certain adjusters to complete specified continuing education courses annually; specifying requirements for such courses; amending s. 626.611, F.S.; revising the grounds for compulsory disciplinary actions by the department against certain insurance personnel; amending s. 626.854, F.S.; prohibiting insurers from excluding the public adjuster's attorney from certain in-person meetings; requiring insurers to communicate with or meet the public adjuster's attorney under certain circumstances; amending s. 626.9541, F.S.; specifying additional unfair claim settlement practices; amending s. 626.9743, F.S.; requiring insurers to promptly provided third-party claimants with specified payments or assistance under certain circumstances; revising a prohibition relating to the use of replacement parts in the repair of a motor vehicle; requiring that replacement parts comply with certain specifications and be able to perform the same function and provide durability and safety equivalent to the condition of the damaged parts immediately before the loss; requiring insurers to replace the entire damaged area and adjoining areas under certain circumstances; requiring insurers to provide insureds with a specified repair plan before performing work;

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requiring insurers to identify and source parts required for the repair and provide certain information to insureds; defining the term "local market area"; requiring insurers to obtain written approval from insureds under certain circumstances; specifying requirements of such written approval; defining the term "diminished value"; requiring insurers to compensate claimants for diminished value; specifying the manner of calculation of diminished value; requiring insurers to provide certain written documentation to insureds; specifying that certain policy provisions are void and unenforceable; amending s. 626.9744, F.S.; requiring insurers to use certain replacement items, parts, or materials under certain circumstances; requiring insurers to make reasonable repairs or replacement of items, parts, or materials in adjoining areas under certain circumstances; requiring insurers to provide insureds with a specified repair plan before work is performed; requiring insurers to identify and source items, parts, or materials required to complete the work and provide certain information to insureds; amending s. 627.4025, F.S.; making clarifying changes regarding the types of coverages included in residential coverage; amending s. 627.418, F.S.; prohibiting insurers from imposing or enforcing certain policy conditions or requirements; providing an exception; specifying that such conditions or requirements, if not authorized, are void and unenforceable; requiring

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59 insurers to make certain disclosures and allow the
60 insured to cancel the policy under certain
61 circumstances; amending s. 627.426, F.S.; revising the
62 conditions under which liability insurers may deny
63 coverage based on a particular coverage defense;
64 reviving, reenacting, and amending s. 627.428, F.S.,
65 relating to attorney fees in cases involving an
66 insurer; providing an exception related to the right
67 to attorney fees and costs in suits arising under a
68 residential or commercial property insurance policy;
69 amending s. 627.70131, F.S.; revising the timeframe in
70 which insurers must pay or deny claims; revising
71 requirements for the explanation for the payment,
72 denial, or partial payment of claims; specifying that
73 insurers have an obligation to pay a specified amount
74 under certain circumstances; authorizing the
75 Department of Financial Services to enforce such
76 obligation; making a clarifying change regarding
77 interest payments; amending s. 627.70151, F.S.;
78 requiring insurers to bear certain costs; providing an
79 exception; providing an effective date.

80
81 Be It Enacted by the Legislature of the State of Florida:

82
83 Section 1. Subsection (3) of section 626.112, Florida
84 Statutes, is amended to read:

85 626.112 License and appointment required; agents, customer
86 representatives, adjusters, insurance agencies, service
87 representatives, managing general agents, insurance adjusting

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88 firms.—

89 (3) A ~~No~~ person may not ~~shall~~ act as an adjuster as to any
90 class of business for which he or she is not then licensed and
91 appointed. If an adjuster lacks an active license or appointment
92 while adjusting an insurance claim, the department must take
93 immediate enforcement action against both the adjuster and the
94 insurer employing, contracting with, or directing such adjuster.

95 Section 2. Present subsections (8) through (10) of section
96 626.2815, Florida Statutes, are redesignated as subsections (9)
97 through (11), respectively, and a new subsection (8) is added to
98 that section, to read:

99 626.2815 Continuing education requirements.—

100 (8) (a) An adjuster who is not a resident of this state must
101 complete 24 hours of Florida-specific continuing education
102 courses annually as part of the requirements imposed under this
103 section.

104 (b) The courses required under this subsection must be
105 delivered by recorded instruction and must include statutes,
106 administrative rules, ethical duties, and claims-handling
107 standards applicable to adjusting insurance claims within this
108 state.

109 Section 3. Paragraphs (r), (s), and (t) are added to
110 subsection (1) of section 626.611, Florida Statutes, to read:

111 626.611 Grounds for compulsory refusal, suspension, or
112 revocation of agent's, title agency's, adjuster's, customer
113 representative's, service representative's, or managing general
114 agent's license or appointment.—

115 (1) The department shall deny an application for, suspend,
116 revoke, or refuse to renew or continue the license or

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117 appointment of any applicant, agent, title agency, adjuster,
118 customer representative, service representative, or managing
119 general agent, and it shall suspend or revoke the eligibility to
120 hold a license or appointment of any such person, if it finds
121 that as to the applicant, licensee, or appointee any one or more
122 of the following applicable grounds exist:

123 (r) Committing a felony or misdemeanor during the
124 adjustment, investigation, or handling of an insurance claim.

125 (s) Engaging in discriminatory claims-handling practices
126 based on race, color, national origin, religion, sex, gender,
127 marital status, disability, or age, as demonstrated by competent
128 substantial evidence.

129 (t) Knowingly misinterpreting or directing another to
130 misinterpret, any provision of an insurance policy or the
131 insurance code in a manner that creates coverage limitations,
132 exclusions, or conditions not found in the plain text of such
133 policy or code.

134 Section 4. Paragraph (a) of subsection (15) of section
135 626.854, Florida Statutes, is amended to read:

136 626.854 "Public adjuster" defined; prohibitions.—The
137 Legislature finds that it is necessary for the protection of the
138 public to regulate public insurance adjusters and to prevent the
139 unauthorized practice of law.

140 (15) The public adjuster must ensure that prompt notice is
141 given of the claim to the insurer, the public adjuster's
142 contract is provided to the insurer, the property is available
143 for inspection of the loss or damage by the insurer, and the
144 insurer is given an opportunity to interview the insured
145 directly about the loss and claim. The insurer must be allowed

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to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster or the public adjuster's attorney from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster or the public adjuster's attorney in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster or the public adjuster's attorney shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

Section 5. Paragraph (i) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(i) *Unfair claim settlement practices.*—

1. Attempting to settle claims on the basis of an application, when serving as a binder or intended to become a part of the policy, or any other material document which was altered without notice to, or knowledge or consent of, the insured;

2. A material misrepresentation made to an insured or any other person having an interest in the proceeds payable under such contract or policy, for the purpose and with the intent of

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175 effecting settlement of such claims, loss, or damage under such
176 contract or policy on less favorable terms than those provided
177 in, and contemplated by, such contract or policy;

178 3. Committing or performing with such frequency as to
179 indicate a general business practice any of the following:

180 a. Failing to adopt and implement standards for the proper
181 investigation of claims;

182 b. Misrepresenting pertinent facts or insurance policy
183 provisions relating to coverages at issue;

184 c. Failing to acknowledge and act promptly upon
185 communications with respect to claims;

186 d. Denying claims without conducting reasonable
187 investigations based upon available information;

188 e. Failing to affirm or deny full or partial coverage of
189 claims, and, as to partial coverage, the dollar amount or extent
190 of coverage, or failing to provide a written statement that the
191 claim is being investigated, upon the written request of the
192 insured within 30 days after proof-of-loss statements have been
193 completed;

194 f. Failing to promptly provide a reasonable explanation in
195 writing to the insured of the basis in the insurance policy, in
196 relation to the facts or applicable law, for denial of a claim
197 or for the offer of a compromise settlement;

198 g. Failing to promptly notify the insured of any additional
199 information necessary for the processing of a claim;

200 h. Failing to clearly explain the nature of the requested
201 information and the reasons why such information is necessary;

202 i. Failing to pay personal injury protection insurance
203 claims within the time periods required by s. 627.736(4)(b). The

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office may order the insurer to pay restitution to a policyholder, medical provider, or other claimant, including interest at a rate consistent with the amount set forth in s. 55.03(1), for the time period within which an insurer fails to pay claims as required by law. Restitution is in addition to any other penalties allowed by law, including, but not limited to, the suspension of the insurer's certificate of authority; or

j. Altering or amending an insurance adjuster's report without:

(I) Providing a detailed explanation as to why any change that has the effect of reducing the estimate of the loss was made; and

(II) Including on the report or as an addendum to the report a detailed list of all changes made to the report and the identity of the person who ordered each change; or

(III) Retaining all versions of the report, and including within each such version, for each change made within such version of the report, the identity of each person who made or ordered such change; ~~or~~

4. Failing to pay undisputed amounts of partial or full benefits owed under first-party property insurance policies within 60 days after an insurer receives notice of a residential property insurance claim, determines the amounts of partial or full benefits, and agrees to coverage, unless payment of the undisputed benefits is prevented by factors beyond the control of the insurer as defined in s. 627.70131(5);

5. Knowingly asserting a policy defense without a reasonable basis under the express language of the policy or applicable law; or

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233 6. Failing to disclose a policy defense promptly in writing
234 when issuing a denial or contested coverage determination.

235 Section 6. Present subsection (10) of section 626.9743,
236 Florida Statutes, is redesignated as subsection (11), a new
237 subsection (10) is added to that section, and subsections (2)
238 and (4) and paragraph (a) of subsection (5) of that section are
239 amended, to read:

240 626.9743 Claim settlement practices relating to motor
241 vehicle insurance.—

242 (2) An insurer may not, when liability and damages owed
243 under the policy are reasonably clear, recommend that a third-
244 party claimant make a claim under his or her own policy solely
245 to avoid paying the claim under the policy issued by that
246 insurer. However, the insurer may identify options to a third-
247 party claimant relative to the repair of his or her vehicle.
248 When liability and damages owed under the policy are reasonably
249 clear, the insurer, upon request by the third-party claimant,
250 must promptly provide the third-party claimant with payment or
251 assistance for loss of use of his or her motor vehicle,
252 including reasonable temporary transportation, to the extent
253 that such coverage would have been available under the policy if
254 the loss had been sustained by the first-party insured, subject
255 to the policy's terms, conditions, and applicable limits.

256 (4) When an insurer elects to repair a motor vehicle, an
257 insurer may not require the use of replacement parts in the
258 repair of a motor vehicle which are not at least equivalent in
259 kind and quality to the damaged parts prior to the loss in terms
260 of color, size, fit, appearance, and performance. All such
261 replacement parts must comply with manufacturer specifications

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and must be able to perform the same function and provide durability and safety equivalent to the condition of the damaged part immediately before the loss. If equivalent parts cannot reasonably be obtained to restore a reasonably uniform appearance, the insurer must replace the entire damaged area and any adjoining areas necessary to achieve a reasonably uniform appearance. Before any work is performed to repair the vehicle, the insurer must provide the insured with a written repair plan describing the scope of work, the basis for electing to repair, and the steps necessary to complete the repairs. The insurer must also identify and source all parts required for the repair and provide the supplier's name, any applicable stock keeping unit or part number, and price and availability information for such parts to the insured.

(5) When the insurance policy provides for the adjustment and settlement of first-party motor vehicle total losses on the basis of actual cash value or replacement with another of like kind and quality, the insurer shall use one of the following methods:

(a) The insurer may elect a cash settlement based upon the actual cost to purchase a comparable motor vehicle, including sales tax, if applicable pursuant to subsection (9).

1. For purposes of this paragraph, the term "local market area" means a geographical area within 50 miles of the insured's primary residence.

2. The actual cost to purchase a comparable motor vehicle ~~Such cost~~ may be derived from any of the following methods:

a. ~~1.~~ When comparable motor vehicles are available in the local market area, the cost of two or more such comparable motor

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vehicles available within the preceding 90 days.~~+~~

~~b.2.~~ The retail cost as determined from a generally recognized used motor vehicle industry source such as:

~~(I)a.~~ An electronic database if the pertinent portions of the valuation documents generated by the database are provided by the insurer to the first-party insured upon request; or

~~(II)b.~~ A guidebook that is generally available to the general public if the insurer identifies the guidebook used as the basis for the retail cost to the first-party insured upon request.~~+~~~~or~~

~~c.3.~~ The retail cost using two or more quotations obtained by the insurer from two or more licensed dealers in the local market area.

3. If the insurer seeks to obtain market data outside the local market area to determine the actual cost to purchase a comparable motor vehicle, the insurer must obtain written approval from the insured. The written approval must include the insured's signature and the following statement in no smaller than 18-point bold, uppercase type:

I AUTHORIZE THE INSURER TO EXPAND THE LOCAL MARKET AREA BEYOND 50 MILES FROM MY PRIMARY RESIDENCE FOR THE PURPOSE OF LOCATING MARKET DATA NECESSARY TO DETERMINE THE ACTUAL CASH VALUE OF MY VEHICLE, PURSUANT TO S. 626.9743, FLORIDA STATUTES.

(10)(a) For purposes of this subsection, the term:

1. "Diminished value" means the loss in the market value of a motor vehicle which remains after repairs are performed to

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320 restore the vehicle to its pre-loss physical condition as to
321 performance and appearance, due to the vehicle having sustained
322 damage and having an accident history.

323 2. "Local market area" has the same meaning as in
324 subparagraph (5) (a) 1.

325 (b) When a motor vehicle is repaired due to a covered loss,
326 the insurer shall compensate the claimant for diminished value.

327 (c) Diminished value shall be calculated by one of the
328 following methods:

329 1. Averaging the differences obtained from subtracting from
330 the actual cash value of the vehicle as determined under
331 subsection (5) the market values of two comparable motor
332 vehicles located within the local market area.

333 a. The two comparable motor vehicles must have sustained
334 comparable damage and repair.

335 b. If an insurer seeks to obtain valuation data from
336 outside the local market area, it must comply with the
337 requirements in subparagraph (5) (a) 3.

338 2. Obtaining no fewer than four dealer trade-in quotations
339 for the repaired vehicle, averaging the quotations, and
340 increasing the amount by 20 percent.

341 (d) The insurer shall provide to the insured written
342 documentation supporting the diminished value determination used
343 in the claim settlement.

344 (e) Any policy provision that purports to exclude
345 diminished value for repaired motor vehicles is void and
346 unenforceable.

347 Section 7. Subsection (2) of section 626.9744, Florida
348 Statutes, is amended to read:

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626.9744 Claim settlement practices relating to property insurance.—Unless otherwise provided by the policy, when a homeowner's insurance policy provides for the adjustment and settlement of first-party losses based on repair or replacement cost, the following requirements apply:

(2) In adjusting or settling a loss that involves the use of replacement items, parts, or materials, the insurer shall use replacement items, parts, or materials that are at least equivalent in kind and quality to the damaged items, parts, or materials before the loss in terms of color, size, fit, appearance, performance, and durability. When a loss requires replacement of items, parts, or materials, and the replaced items, parts, or materials do not match the existing undamaged areas in quality, color, ~~or~~ size, or appearance, the insurer shall make reasonable repairs or replacement of items, parts, or materials in adjoining areas as necessary to achieve a reasonably uniform appearance. In determining the extent of the repairs or replacement of items in adjoining areas, the insurer may consider the cost of repairing or replacing the undamaged portions of the property, the degree of uniformity that can be achieved without such cost, the remaining useful life of the undamaged portion, and other relevant factors. Before any work is performed to repair or replace damaged items, parts, or materials, the insurer must provide the insured with a written plan describing the scope of work, the basis for electing to repair or replace, and the steps necessary to complete such work. The insurer must also identify and source all replacement items, parts, or materials required to complete such work and provide the supplier's name, any applicable stock keeping unit

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or part number, and price and availability information for such items, parts, or materials to the insured.

Section 8. Subsection (1) of section 627.4025, Florida Statutes, is amended to read:

627.4025 Residential coverage and hurricane coverage defined.—

(1) Residential coverage includes both personal lines and commercial lines coverage. Personal lines residential coverage includes residential coverage, which consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant, condominium unit owner, cooperative unit owner, and similar personal lines residential policies., ~~and Commercial lines residential coverage includes, which consists of the type of coverage provided by~~ condominium association, cooperative association, apartment building, and similar commercial lines residential policies, including policies covering the common elements of a homeowners association. Residential coverage for personal lines and commercial lines as set forth in this section includes policies that provide coverage for particular perils such as windstorm and hurricane or coverage for insurer insolvency or deductibles.

Section 9. Subsection (3) is added to section 627.418, Florida Statutes, to read:

627.418 Validity of noncomplying contracts.—

(3) An insurer may not impose or enforce any policy condition or requirement that is not authorized by this insurance code unless the condition or requirement has been submitted to and approved by the office. Any such unauthorized condition or requirement is void and unenforceable. If a policy

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contains any condition or requirement not authorized by this insurance code but approved by the office, the insurer must clearly disclose that the provision is not authorized by the insurance code to the insured at the time of issuance along with necessary definitions to understand the provisions of the policy and the steps required for compliance with the provisions of the policy, using plain language, and must allow the insured to cancel the policy within 10 days after receipt at no cost. The disclosure must include the following notice, printed in bold type:

IMPORTANT NOTICE: SOME PROVISIONS IN THIS POLICY ARE NOT ESTABLISHED BY FLORIDA STATUTES. FAILURE TO MEET THESE CONTRACTUAL REQUIREMENTS MAY AFFECT YOUR COVERAGE OR RESULT IN CLAIM DELAY OR DENIAL. YOU HAVE RIGHTS UNDER FLORIDA LAW. YOU MAY CANCEL THIS POLICY WITHIN 10 DAYS AFTER RECEIPT AT NO COST.

Section 10. Subsection (2) of section 627.426, Florida Statutes, is amended to read:

627.426 Claims administration.—

(2) A liability insurer may ~~shall not be permitted to~~ deny coverage based on a particular coverage defense unless all of the following conditions are met:

(a)1. Within 30 days after the liability insurer knew or should have known of the coverage defense, written notice of reservation of rights to assert a coverage defense is given to the named insured by United States postal proof of mailing, registered or certified mail, or other mailing using the Intelligent Mail barcode or other similar tracking method used

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or approved by the United States Postal Service sent to the last known address of the insured or by hand delivery. Such notice of reservation of rights must include all the following:

a. A clear statement of the factual issue giving rise to the reservation of rights.

b. An explanation, in plain language, of why the issue may affect coverage.

c. A description of any additional information or documentation needed from the insured.

d. A description of the next steps in the investigative process and the expected timeframes for completing those steps.

e. If the insurer determines that fraud or misrepresentation may affect the claim, identification of the specific facts supporting that determination.

2. A notice of reservation of rights given under this section may not be used to extend, delay, or suspend the payment of a covered loss or any statutory deadline for paying or denying a claim under this code. ~~and~~

(b) Within 60 days after ~~of~~ compliance with paragraph (a) or receipt of a summons and complaint naming the insured as a defendant, whichever is later, but in no case later than 30 days before trial, the insurer:

1. Gives written notice to the named insured by United States postal proof of mailing, registered or certified mail, or other mailing using the Intelligent Mail barcode or other similar tracking method used or approved by the United States Postal Service of its refusal to defend the insured;

2. Obtains from the insured a nonwaiver agreement following full disclosure of the specific facts and policy provisions upon

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which the coverage defense is asserted and the duties, obligations, and liabilities of the insurer during and following the pendency of the subject litigation; or

3. Retains independent counsel which is mutually agreeable to the parties. Reasonable fees for the counsel may be agreed upon between the parties or, if no agreement is reached, shall be set by the court.

Section 11. Notwithstanding the repeal of section 627.428, Florida Statutes, in section 11 of chapter 2023-15, Laws of Florida, section 627.428, Florida Statutes, is revived, reenacted, and amended to read:

627.428 Attorney fees and costs.—

(1) Except as provided in subsection (4), upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

(2) As to suits based on claims arising under life insurance policies or annuity contracts, no such attorney fees shall be allowed if such suit was commenced prior to expiration of 60 days after proof of the claim was duly filed with the insurer.

(3) When so awarded, compensation or fees of the attorney shall be included in the judgment or decree rendered in the

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case.

(4) In a suit arising under a residential or commercial property insurance policy, there is no right to attorney fees and costs, including public adjuster costs and costs related to the adjustment of the loss, under this section unless the insured or policyholder prevails in a lawsuit against an insurer for underpayment, wrongful claim denial, or bad faith practices.

Section 12. Paragraph (a) of subsection (7) of section 627.70131, Florida Statutes, is amended to read:

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

(7)(a) Within 30 ~~60~~ days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay or deny is caused by factors beyond the insurer's control ~~of the insurer~~. The insurer shall provide a clear, written ~~reasonable~~ explanation ~~in writing~~ to the policyholder which outlines the reasoning of the basis in the insurance policy, in relation to the facts or applicable law, for the payment, denial, or partial denial of the ~~a~~ claim, referencing relevant sections of the insurance policy or applicable facts or laws. Such explanation may not be solely a recitation of policy provisions without application of those provisions to the facts of the claim. If the insurer's claim payment is less than specified in any insurer's detailed estimate of the amount of the loss, the insurer must provide a reasonable explanation in writing of the difference to the policyholder. Any payment for ~~of~~ an initial or supplemental claim or portion of such claim made 60 days after

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the insurer receives notice of the claim, or made after the expiration of any additional timeframe provided to pay or deny a claim or a portion of a claim made pursuant to an order of the office finding factors beyond the insurer's control ~~of the insurer~~, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. If the insurer fails to pay the full amount owed on the claim within 90 days after the insurer receives notice of the claim or within any extended timeframe authorized by order of the office, the insurer has an uncontestable obligation to pay the amount owed, together with interest as provided in this subsection and an additional equal interest penalty. The department may enforce such obligation. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured must select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid, even if the payment is contingent upon a release. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

Section 13. Section 627.70151, Florida Statutes, is amended to read:

627.70151 Appraisal; conflicts of interest; costs.—

(1) An insurer that offers residential coverage as defined in s. 627.4025, or a policyholder that uses an appraisal clause in a property insurance contract to establish a process for estimating or evaluating the amount of loss through the use of

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an impartial umpire, may challenge an umpire's impartiality and disqualify the proposed umpire only if any of the following conditions exists:

(a)~~(1)~~ A familial relationship within the third degree exists between the umpire and a party or a representative of a party;

(b)~~(2)~~ The umpire has previously represented a party in a professional capacity in the same claim or matter involving the same property;

(c)~~(3)~~ The umpire has represented another person in a professional capacity on the same or a substantially related matter that includes the claim, the same property or an adjacent property, and the other person's interests are materially adverse to the interests of a party; or

(d)~~(4)~~ The umpire has worked as an employer or employee of a party within the preceding 5 years.

(2) The insurer must bear the reasonable cost of the appraisal process under this section unless otherwise agreed by the parties.

Section 14. This act shall take effect July 1, 2026.