

1 A bill to be entitled

2 An act relating to insurance claims; amending s.
3 626.854, F.S.; providing that an assignment or
4 agreement that transfers authority to adjust,
5 negotiate, or settle a claim is void; amending s.
6 627.405, F.S.; prohibiting assignment of an insurable
7 interest except to subsequent purchasers after a loss;
8 amending s. 627.422, F.S.; authorizing an insurance
9 policy to prohibit assignment of post-loss benefits;
10 providing exceptions; amending s. 627.70131, F.S.;
11 providing requirements relating to communications
12 regarding claims; revising time periods relating to
13 initial, reopened, and supplemental property insurance
14 claim notices and payments; amending s. 627.7142,
15 F.S.; revising information to be included in the
16 Homeowner Claims Bill of Rights; providing an
17 effective date.

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

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21 Section 1. Subsection (16) of section 626.854, Florida
22 Statutes, is amended to read:

23 626.854 "Public adjuster" defined; prohibitions.—The
24 Legislature finds that it is necessary for the protection of the
25 public to regulate public insurance adjusters and to prevent the
26 unauthorized practice of law.

27 (16) (a) A licensed contractor under part I of chapter 489,
 28 or a subcontractor, may not adjust a claim on behalf of an
 29 insured unless licensed and compliant as a public adjuster under
 30 this chapter. However, the contractor may discuss or explain a
 31 bid for construction or repair of covered property with the
 32 residential property owner who has suffered loss or damage
 33 covered by a property insurance policy, or the insurer of such
 34 property, if the contractor is doing so for the usual and
 35 customary fees applicable to the work to be performed as stated
 36 in the contract between the contractor and the insured.

37 (b) Any assignment or agreement that purports to transfer
 38 the authority to adjust, negotiate, or settle any portion of a
 39 claim to such contractor or subcontractor, or that is otherwise
 40 in derogation of this section, is void.

41 Section 2. Subsection (4) is added to section 627.405,
 42 Florida Statutes, to read:

43 627.405 Insurable interest; property.—

44 (4) Insurable interest does not survive an assignment,
 45 except to a subsequent purchaser of the property who acquires
 46 insurable interest following a loss.

47 Section 3. Section 627.422, Florida Statutes, is amended
 48 to read:

49 627.422 Assignment of policies; restrictions on post-loss
 50 assignment of benefits.—

51 (1) A policy may be assignable, or not assignable, as
 52 provided by its terms. Subject to its terms relating to

53 | assignability, any life or health insurance policy under the
54 | terms of which the beneficiary may be changed upon the sole
55 | request of the policyowner may be assigned either by pledge or
56 | transfer of title, by an assignment executed by the policyowner
57 | alone and delivered to the insurer, whether or not the pledgee
58 | or assignee is the insurer. Any such assignment shall entitle
59 | the insurer to deal with the assignee as the owner or pledgee of
60 | the policy in accordance with the terms of the assignment, until
61 | the insurer has received at its home office written notice of
62 | termination of the assignment or pledge or written notice by or
63 | on behalf of some other person claiming some interest in the
64 | policy in conflict with the assignment.

65 | (2) A property insurance policy may prohibit the post-loss
66 | assignment of rights, benefits, causes of action, or other
67 | contractual rights under the policy, except:

68 | (a) An insured may assign the benefit of payment of no
69 | more than \$3,000 to a person or entity providing services or
70 | materials to mitigate or repair damage directly arising from a
71 | covered loss. The assignment is limited solely to the ability to
72 | be named as a copayee for the benefit of payment for the
73 | reasonable value of services rendered and materials provided to
74 | mitigate or repair the damage. The insured may not assign the
75 | right to enforce payment of the post-loss benefits in the
76 | policy.

77 | (b) For the purpose of compensating a public adjuster for
78 | services authorized by s. 626.854(11). The assignment may only

79 be for compensation due to the public adjuster by the insured
 80 and not for the remainder of the benefits due to the insured
 81 under the policy. This paragraph does not affect any obligation
 82 of the insurer to issue the insured a check for payment in the
 83 name of the insured or mortgage holder.

84 (c) For payment of an attorney representing the insured,
 85 if the assignment provides that the benefits must be paid to the
 86 attorney representing the insured and that the attorney must
 87 disperse the funds to repair the property at the direction of
 88 the insured.

89 (3) Any post-loss assignment of rights, benefits, causes
 90 of action, or other contractual rights in contravention of this
 91 section renders the assignment void.

92 Section 4. Paragraph (a) of subsection (1) and paragraph
 93 (a) of subsection (5) of section 627.70131, Florida Statutes,
 94 are amended to read:

95 627.70131 Insurer's duty to acknowledge communications
 96 regarding claims; investigation.—

97 (1)(a) Upon an insurer's receiving a communication with
 98 respect to a claim, the insurer shall, within 7 ~~14~~ calendar
 99 days, review and acknowledge receipt of such communication
 100 unless payment is made within that period of time or unless the
 101 failure to acknowledge is caused by factors beyond the control
 102 of the insurer which reasonably prevent such acknowledgment. If
 103 the acknowledgment is not in writing, a notification indicating
 104 acknowledgment shall be made in the insurer's claim file and

105 | dated. A communication made to or by an agent of an insurer with
106 | respect to a claim shall constitute communication to or by the
107 | insurer. If a residential property insurer receives a
108 | communication in writing from a third party identified in s.
109 | 627.422(2) with respect to the claim requesting that the insurer
110 | acknowledge the existence of a policy of insurance on the
111 | property, the insurer must respond to the communication within 7
112 | days after the request. If the insurer's acknowledgment is not
113 | in writing, a notification indicating acknowledgment must be
114 | made in the insurer's claim file and dated.

115 | (5) (a) Within 45 ~~90~~ days after an insurer receives notice
116 | of an initial, reopened, or supplemental property insurance
117 | claim from a policyholder, the insurer shall pay or deny such
118 | claim or a portion of the claim unless the failure to pay is
119 | caused by factors beyond the control of the insurer which
120 | reasonably prevent such payment. Any payment of an initial or
121 | supplemental claim or portion of such claim made 45 ~~90~~ days
122 | after the insurer receives notice of the claim, or made more
123 | than 15 days after there are no longer factors beyond the
124 | control of the insurer which reasonably prevented such payment,
125 | whichever is later, bears interest at the rate set forth in s.
126 | 55.03. Interest begins to accrue from the date the insurer
127 | receives notice of the claim. The provisions of this subsection
128 | may not be waived, voided, or nullified by the terms of the
129 | insurance policy. If there is a right to prejudgment interest,
130 | the insured shall select whether to receive prejudgment interest

131 or interest under this subsection. Interest is payable when the
 132 claim or portion of the claim is paid. Failure to comply with
 133 this subsection constitutes a violation of this code. However,
 134 failure to comply with this subsection does not form the sole
 135 basis for a private cause of action.

136 Section 5. Section 627.7142, Florida Statutes, is amended
 137 to read:

138 627.7142 Homeowner Claims Bill of Rights.—An insurer
 139 issuing a personal lines residential property insurance policy
 140 in this state must provide a Homeowner Claims Bill of Rights to
 141 a policyholder within 7 ~~14~~ days after receiving an initial
 142 communication with respect to a claim, unless the claim follows
 143 an event that is the subject of a declaration of a state of
 144 emergency by the Governor. The purpose of the bill of rights is
 145 to summarize, in simple, nontechnical terms, existing Florida
 146 law regarding the rights of a personal lines residential
 147 property insurance policyholder who files a claim of loss. The
 148 Homeowner Claims Bill of Rights is specific to the claims
 149 process and does not represent all of a policyholder's rights
 150 under Florida law regarding the insurance policy. The Homeowner
 151 Claims Bill of Rights does not create a civil cause of action by
 152 any individual policyholder or class of policyholders against an
 153 insurer or insurers. The failure of an insurer to properly
 154 deliver the Homeowner Claims Bill of Rights is subject to
 155 administrative enforcement by the office but is not admissible
 156 as evidence in a civil action against an insurer. The Homeowner

157 Claims Bill of Rights does not enlarge, modify, or contravene
 158 statutory requirements, including, but not limited to, ss.
 159 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
 160 not prohibit an insurer from exercising its right to repair
 161 damaged property in compliance with the terms of an applicable
 162 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
 163 Claims Bill of Rights must state:

164 HOMEOWNER CLAIMS

165 BILL OF RIGHTS

166 This Bill of Rights is specific to the claims process and does
 167 not represent all of your rights under Florida law regarding
 168 your policy. There are also exceptions to the stated timelines
 169 when conditions are beyond your insurance company's control.
 170 This document does not create a civil cause of action by an
 171 individual policyholder, or a class of policyholders, against an
 172 insurer or insurers and does not prohibit an insurer from
 173 exercising its right to repair damaged property in compliance
 174 with the terms of an applicable policy.

175 YOU HAVE THE RIGHT TO:

- 176 1. Receive from your insurance company an acknowledgment
 177 of your reported claim within 7 ~~14~~ days after the time you
 178 communicated the claim.
- 179 2. Upon written request, receive from your insurance
 180 company within 15 ~~30~~ days after you have submitted a
 181 complete proof-of-loss statement to your insurance company,
 182 confirmation that your claim is covered in full, partially

183 covered, or denied, or receive a written statement that
 184 your claim is being investigated.

185 3. Within 45 ~~90~~ days, subject to any dual interest noted
 186 in the policy, receive full settlement payment for your
 187 claim or payment of the undisputed portion of your claim,
 188 or your insurance company's denial of your claim.

189 4. Free mediation of your disputed claim by the Florida
 190 Department of Financial Services, Division of Consumer
 191 Services, under most circumstances and subject to certain
 192 restrictions.

193 5. Neutral evaluation of your disputed claim, if your
 194 claim is for damage caused by a sinkhole and is covered by
 195 your policy.

196 6. Contact the Florida Department of Financial Services,
 197 Division of Consumer Services' toll-free helpline for
 198 assistance with any insurance claim or questions pertaining
 199 to the handling of your claim. You can reach the Helpline
 200 by phone at...(toll-free phone number)..., or you can seek
 201 assistance online at the Florida Department of Financial
 202 Services, Division of Consumer Services' website
 203 at...(website address)....

204 YOU ARE ADVISED TO:

205 1. Contact your insurance company before entering into any
 206 contract for repairs to confirm any managed repair policy
 207 provisions or optional preferred vendors.

208 2. Make and document emergency repairs that are necessary

209 to prevent further damage. Keep the damaged property, if
210 feasible, keep all receipts, and take photographs of damage
211 before and after any repairs.

212 3. Carefully read any contract that requires you to pay
213 out-of-pocket expenses or a fee that is based on a
214 percentage of the insurance proceeds that you will receive
215 for repairing or replacing your property.

216 4. Confirm that the contractor you choose is licensed to
217 do business in Florida. You can verify a contractor's
218 license and check to see if there are any complaints
219 against him or her by calling the Florida Department of
220 Business and Professional Regulation. You should also ask
221 the contractor for references from previous work.

222 5. Require all contractors to provide proof of insurance
223 before beginning repairs.

224 6. Take precautions if the damage requires you to leave
225 your home, including securing your property and turning off
226 your gas, water, and electricity, and contacting your
227 insurance company and provide a phone number where you can
228 be reached.

229 Section 6. This act shall take effect July 1, 2015.