

Amendment No. a1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

Committee/Subcommittee hearing bill: Insurance & Banking
Subcommittee

Representative Santiago offered the following:

**Amendment to Amendment (857069) by Representative Grant, J.
(with title amendment)**

Between lines 247 and 248 of the amendment, insert:

Section 3. Section 627.7289, Florida Statutes is created to
read:

(1) As used in this section, the term "assignment
agreement" means a written instrument by which post-loss
benefits under a motor vehicle comprehensive insurance policy
are assigned to a person providing services to repair or replace
the windshield of any motor vehicle.

(2) An assignee must provide the insurer and the insured
with a notice of intent to initiate litigation related to an

Amendment No. a1

17 assignment agreement at least 21 days before filing a complaint.
18 The notice must specify the damages and amount claimed. An
19 insurer shall handle claims in a manner consistent with s.
20 626.9541. An assignee and insured must cooperate with the
21 insurer during the investigation, review, and evaluation by the
22 insurer.

23 (a) Notwithstanding any other law to the contrary, in a
24 proceeding related to an assignment agreement for post-loss
25 claims arising under a motor vehicle comprehensive insurance
26 policy for the repair or replacement of the windshield of any
27 motor vehicle, attorney fees and costs may only be recovered
28 under s. 57.105 and this subsection.

29 (b) An assignee is entitled to reasonable attorney fees
30 from the insurer if the assignee prevails in the action and the
31 claims amount awarded is equal to or greater than the
32 prejudgment settlement amount requested by the assignee for the
33 damages claimed.

34 (c) An insurer is entitled to reasonable attorney fees from
35 the assignee if the insurer prevails in the action and the
36 amount awarded to the assignee is equal to or less than the
37 prejudgment settlement amount offered by the insurer for post-
38 loss claims.

39 (d) Attorney fees may not be awarded to either party
40 if an assignee prevails in an action in which the amount awarded
41 is less than the prejudgment settlement amount requested by the

Amendment No. a1

42 assignee for post-loss claims and is more than the prejudgment
43 settlement amount offered by the insurer.

44 (3) This section applies to assignment agreements executed
45 after July 1, 2017.

46

47 -----

48 **T I T L E A M E N D M E N T**

49 Remove everything before the enacting clause of the
50 amendment and insert:

51 An act relating to insurance assignment agreements; creating s.
52 627.7152, F.S.; providing a definition; providing for a court
53 to award attorney fees in certain cases; providing requirements
54 and limitations of assignment agreements; providing burden of
55 proof; providing insureds' payment obligations under an
56 assignment agreement; providing an assignment agreement does not
57 affect managed repair arrangements under an insurance policy;
58 providing applicability; amending s. 627.422, F.S.; specifying
59 certain residential property insurance policies may not prohibit
60 assignment of post-loss benefits; creating s. 627.7289, F.S.;
61 providing a definition; providing for a court to award attorney
62 fees in certain cases involving a motor vehicle windshield;
63 providing applicability; providing an effective date.