



422902

LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Broxson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.7152, Florida Statutes, is created
to read:

627.7152 Assignment of property insurance post-loss
benefits.—

(1) As used in this section, the term "assignment
agreement" means any instrument by which post-loss property



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11 insurance benefits for services to protect, repair, restore, or
12 replace property, or to mitigate against further damage to
13 property, are assigned, transferred, or conveyed, regardless of
14 how named or styled.

15 (2) Notwithstanding any other law, as to suits based on
16 claims arising under property insurance policies, attorney fees
17 may not be awarded under s. 626.9373 or s. 627.428 in favor of
18 any person or entity seeking relief against an insurer pursuant
19 to an assignment agreement, but may be awarded only under s.
20 57.105 or s. 768.79 in favor of any person or entity seeking
21 relief against the insurer pursuant to an assignment agreement.

22 (3) An assignment agreement is not valid unless it meets
23 all of the following requirements:

24 (a) The assignment agreement is in writing and is executed
25 by all named insureds;

26 (b) The assignment agreement contains a provision that
27 permits all named insureds to rescind the assignment agreement
28 without any penalty or rescission or cancellation fee within 7
29 business days after the date the assignment agreement is
30 executed by all named insureds;

31 (c) The assignment agreement contains a provision requiring
32 the assignee or transferee to provide a copy of the executed
33 assignment agreement to the insurer no later than 3 business
34 days after the assignment agreement is executed by any named
35 insured; and

36 (d) The assignment agreement contains a written, itemized,
37 per-unit cost estimate of the work to be performed by the
38 assignee or transferee.

39 (4) The following provisions may not be included in an



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40 assignment agreement and are deemed to be invalid and
41 unenforceable against the property insurer or named insureds:
42 (a) A penalty or fee for rescission of the assignment
43 agreement pursuant to subsection (3);
44 (b) A check or mortgage processing fee;
45 (c) A penalty or fee for cancellation of the assignment
46 agreement pursuant to subsection (3); or
47 (d) An administrative fee.
48 (5) As to claims arising under an assignment agreement, the
49 failure to comply with any provision of this subsection creates
50 a presumption that the insurer is prejudiced by such failure to
51 comply and shifts the burden in any proceeding or suit to the
52 party seeking benefits, rights, or proceeds from the insurer to
53 demonstrate that the insurer was not prejudiced. The assignee or
54 transferee must do all of the following:
55 (a) Maintain records of all services provided under the
56 assignment agreement;
57 (b) Cooperate with the insurer in the investigation of a
58 claim;
59 (c) Provide the insurer with any and all records and
60 documents requested related to services provided and permit the
61 insurer to make copies;
62 (d) Deliver a copy of the executed assignment agreement to
63 the insurer no later than 3 business days after the assignment
64 agreement is executed by all named insureds; and
65 (e) Concurrently with any request for payment of benefits
66 under the insurance policy, provide the insurer with a written,
67 itemized, per-unit cost statement of services actually performed
68 pursuant to the assignment agreement.



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69 (6) As to claims arising under an assignment agreement, an
70 assignee must, as a condition precedent to filing a suit under
71 the policy:

72 (a) If required by the insurer, submit to examinations
73 under oath and recorded statements conducted by the insurer or
74 the insurer's representative which are limited to matters
75 related to the services provided, the costs of services, and the
76 assignment or transfer; and

77 (b) Participate in an appraisal or other alternative
78 dispute resolution method in accordance with the terms of the
79 policy.

80 (7) An activity in compliance with subsections (5) and (6)
81 does not constitute practice as a public adjuster pursuant to
82 part VI of chapter 626.

83 (8) Notwithstanding any other law, the acceptance by a
84 person of any assignment agreement constitutes a waiver by the
85 assignee or transferee, and any subcontractor of the assignee or
86 transferee, of any and all claims against all named insureds for
87 payment arising from the specified loss, except that all named
88 insureds remain responsible for the payment of any deductible
89 amount provided for by the terms of the insurance policy and for
90 the cost of any betterment ordered by all named insureds. This
91 waiver remains in effect notwithstanding any subsequent
92 determination that the assignment agreement is invalid or the
93 rescission of the assignment agreement by all named insureds.

94 (9) This section does not permit an assignment agreement to
95 modify or eliminate any term, condition, or defense relating to
96 any managed repair arrangement provided for in the insurance
97 policy to which the assignment agreement relates.



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127 certain awards of attorney fees to certain persons or
128 entities in suits brought against insurers based on
129 claims arising under property insurance policies;
130 providing that attorney fees may be awarded to such
131 persons or entities only under specified provisions;
132 providing that an assignment agreement is not valid
133 unless specified requirements are met; prohibiting
134 certain provisions in an assignment agreement;
135 specifying requirements for an assignee or transferee;
136 requiring an assignee to meet certain requirements as
137 a condition precedent to filing suit under a policy;
138 providing construction; providing applicability;
139 providing that certain property insurers, within a
140 specified timeframe, must make full annual base rate
141 filings with the Office of Insurance Regulation rather
142 than certifying rates; providing an effective date.