

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/HB 7065 — Insurance Assignment Agreements

by Judiciary Committee; Insurance and Banking Subcommittee; Civil Justice Subcommittee; and Rep. Rommel and others (CS/CS/CS/SB 122 by Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senators Broxson, Hooper, Simmons, and Stewart)

The bill addresses issues arising from the assignment of post-loss benefits from property insurance policies. The bill eliminates the “one way” attorney fee for assignees. The bill requires the assignee to give notice prior to filing a lawsuit and make a presuit demand. The insurer must respond with a presuit settlement offer. The court must compare the difference between the demand and the offer with the judgment obtained and award attorney fees based on a formula that provides that if the difference between the judgment obtained by the assignee and the presuit settlement offer is:

- Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.
- At least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees.
- At least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.

The bill allows insurers to make available a property insurance policy that prohibits or restricts the assignment of post-loss benefits. If an insurer offers a policy that prohibits or restricts assignments of post-loss benefits, it must offer a policy with the same coverage that does not restrict or prohibit the right to assign benefits. When purchasing a policy that prohibits or restricts assignments of post-loss benefits, the named insured must reject the fully assignable policy. Policies prohibiting or restricting assignment of benefits must be at a lower cost.

The bill requires assignees to comply with some of the policyholder’s duties under the insurance policy. Insurance policies generally require insureds to cooperate with the claims investigation, sit for examinations under oath by the insurance company, and participate in appraisal. This bill applies those duties to the assignees as well. In addition, the bill:

- Gives the insured 14 days to rescind the assignment.
- Gives the insured 30 days to rescind the assignment if the assignee has not begun substantial work during that 30 days.
- Requires the assignee to provide a copy of the assignment agreement to the insurance company within 3 days.
- Limits assignments of benefits to \$3,000 or 1 percent of Coverage A during emergencies.
- Prohibits assignee from charging fees or penalties for mortgage processing, rescission or cancellation of the agreement, or administrative fees to insureds.
- Limits the ability of assignees to collect payment from insureds.
- Requires insurers to report information about assignments to the Office of Insurance Regulation.

- Provides that Citizens Property Insurance Corporation cannot implement rate changes unless the rate filing reflects projected savings from the bill.

If CS/CS/HB 337 becomes law, then subsection 627.7152(10), F.S., created by this bill, is effective upon becoming law. Subsection 627.7152(10), F.S., provides that attorney fees related to an assignment agreement for post-loss claims arising under a property insurance policy may only be recovered by an assignee pursuant to the formula created in subsection (10) or s. 57.105, F.S.

If approved by the Governor, these provisions take effect July 1, 2019.

Vote: Senate 25-14; House 96-20