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LEGISLATIVE ACTION

Senate

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House

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

1 **Senate Substitute for Amendment (923034) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

8 627.7152 Assignment of residential homeowner's property
9 insurance post-loss benefits.—

10 (1) An agreement to assign post-loss benefits of a



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11 residential homeowner's property insurance policy is not valid
12 unless the agreement:

13 (a) Is in writing;

14 (b) Is limited to claims for work performed or work to be
15 performed by the assignee to protect or repair property from
16 damage, including, but not limited to, work to stabilize,
17 protect, repair, or improve such property;

18 (c) Allows the insured to rescind the assignment within 3
19 days after the execution of the assignment without a penalty or
20 fee;

21 (d) Contains the following notice in 14-point bold type to
22 the consumer:

23
24 "WARNING: IF YOU HAVE RESIDENTIAL HOMEOWNERS PROPERTY
25 INSURANCE, YOU MAY BE AGREEING TO GIVE UP CERTAIN
26 RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD
27 PARTY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE
28 SIGNING IT. WITH THE EXCEPTION OF PAYMENT FOR WORK
29 ALREADY PERFORMED BY A SERVICE PROVIDER TO PREVENT
30 ADDITIONAL DAMAGE FROM OCCURRING TO THE PROPERTY
31 RESULTING FROM EMERGENCY OR URGENT CIRCUMSTANCES, YOU
32 HAVE THE RIGHT TO RESIND THIS AGREEMENT WITHOUT
33 PENTALTY WITHIN 3 BUSINESS DAYS AFTER THE DATE THIS
34 AGREEMENT IS EXECUTED. IF THE ASSIGNMENT IS RESCINDED,
35 YOU ARE RESPONSIBLE TO PAY FOR THE WORK DONE UP TO THE
36 DATE OF THE RESCISSION AND YOU ARE NOT OTHERWISE
37 RESPONSIBLE TO PAY FOR THE WORK COVERED BY THE
38 ASSIGNMENT. IF WORK IS BEING PERFORMED AS A RESULT OF
39 DAMAGES CAUSED BY AN EVENT FOR WHICH THE GOVERNOR HAS



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40 DECLARED A STATE OF EMERGENCY AND IS WITHIN 1 YEAR
41 AFTER SUCH DECLARATION, THE 3 BUSINESS DAY PERIOD TO
42 RESIND THIS AGREEMENT IS EXTENDED TO 5 BUSINESS DAYS.
43 THIS AGREEMENT DOES NOT CHANGE YOUR DUTIES UNDER YOUR
44 PROPERTY INSURANCE POLICY, SUCH AS PROMPTLY NOTIFYING
45 YOUR INSURANCE COMPANY OF A LOSS AND MITIGATING YOUR
46 PROPERTY FROM FURTHER DAMAGE.

47
48 (2) (a) The assignee shall provide a copy of the assignment
49 agreement to the insurer within 5 days after execution of the
50 agreement, or within 48 hours after beginning nonemergency work,
51 whichever is earlier, if the insurer has a facsimile number and
52 email address on its website designated for the delivery of such
53 documents. This assignment agreement must be accompanied by a
54 written estimate of the work to be done, with unit prices
55 indicated where appropriate, and the basis for calculating lump
56 sum fees if unit prices are inappropriate. The estimate must be
57 timely updated if conditions require a change in scope. The
58 failure to comply with this requirement constitutes a defense to
59 any payment obligation under the policy or the assignment, if
60 the insurer can establish prejudice resulting from the failure.

61 (3) Notwithstanding any other law, the acceptance by a
62 person of any assignment agreement constitutes a waiver by the
63 assignee or transferee, and any subcontractor of the assignee or
64 transferee, of any and all claims against all named insureds for
65 payment arising from the specified loss, except that all named
66 insureds remain responsible for the payment of any deductible
67 amount provided for by the terms of the insurance policy and for
68 the cost of any betterment ordered by all named insureds. This



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69 waiver remains in effect notwithstanding any subsequent
70 determination that the assignment agreement is invalid or
71 notwithstanding the rescission of the assignment agreement by
72 all named insureds, except that the assignee is entitled to
73 payment for the reasonable cost of any contracted work performed
74 before the assignor rescinded the assignment agreement.

75 Section 2. This act shall take effect July 1, 2019.

76
77
78 ===== T I T L E A M E N D M E N T =====

79 And the title is amended as follows:

80 Delete everything before the enacting clause
81 and insert:

82 A bill to be entitled
83 An act relating to assignment of residential
84 homeowners property insurance post-loss benefits;
85 creating s. 627.7152, F.S.; providing that an
86 agreement to assign post-loss benefits of a
87 residential homeowner's property insurance policy is
88 not valid unless specified conditions are met;
89 requiring the assignee to provide a copy of the
90 assignment agreement and a specified written estimate
91 to the insurer within a specified timeframe; requiring
92 the estimate to be timely updated if conditions
93 require a change in scope; providing construction
94 relating to failure to comply with such requirement;
95 providing that a person's acceptance of an assignment
96 agreement constitutes a waiver by the assignee or
97 transferee, or any subcontractor of the assignee or



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98 transferee, of certain claims against named insureds,
99 except under specified circumstances; providing
100 construction relating to such waiver; providing an
101 effective date.