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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 303 - 691

and insert:

impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(21) A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter into a contract with an insured or a third-party claimant



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11 pursuant to paragraph (10) (a) may not charge an insured or a
12 third-party claimant or receive payment by any other source for
13 any type of service related to the insured or third-party
14 claimant's claim.

15 Section 11. Effective January 1, 2022, subsection (3) of
16 section 626.916, Florida Statutes, is amended, and paragraph (f)
17 is added to subsection (1) of that section, to read:

18 626.916 Eligibility for export.—

19 (1) No insurance coverage shall be eligible for export
20 unless it meets all of the following conditions:

21 (f) The insured has signed or otherwise provided documented
22 acknowledgment of a disclosure in substantially the following
23 form: "You are agreeing to place coverage in the surplus lines
24 market. Coverage may be available in the admitted market.
25 Persons insured by surplus lines carriers are not protected
26 under the Florida Insurance Guaranty Act with respect to any
27 right of recovery for the obligation of an insolvent unlicensed
28 insurer."

29 (3) (a) Subsection (1) does not apply to wet marine and
30 transportation or aviation risks that ~~which~~ are subject to s.
31 626.917.

32 (b) Paragraphs (1) (a)-(d) do not apply to classes of
33 insurance which are subject to s. 627.062(3) (d)1. These classes
34 may be exportable under the following conditions:

35 1. The insurance must be placed only by or through a
36 surplus lines agent licensed in this state;

37 2. The insurer must be made eligible under s. 626.918; and

38 3. The insured has complied with paragraph (1) (f) ~~must sign~~
39 ~~a disclosure that substantially provides the following: "You are~~



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40 ~~agreeing to place coverage in the surplus lines market. Superior~~
41 ~~coverage may be available in the admitted market and at a lesser~~
42 ~~cost. Persons insured by surplus lines carriers are not~~
43 ~~protected under the Florida Insurance Guaranty Act with respect~~
44 ~~to any right of recovery for the obligation of an insolvent~~
45 ~~unlicensed insurer.” If the disclosure notice is signed by the~~
46 insured, the insured is presumed to have been informed and to
47 know that other coverage may be available, and, with respect to
48 the diligent-effort requirement under subsection (1), there is
49 no liability on the part of, and no cause of action arises
50 against, the retail agent presenting the form.

51 Section 12. Paragraph (z) of subsection (1) of section
52 626.9541, Florida Statutes, is amended to read:

53 626.9541 Unfair methods of competition and unfair or
54 deceptive acts or practices defined.—

55 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
56 ACTS.—The following are defined as unfair methods of competition
57 and unfair or deceptive acts or practices:

58 (z) *Sliding*.—Sliding is the act or practice of any of the
59 following:

60 1. Representing to the applicant that a specific ancillary
61 coverage or product is required by law in conjunction with the
62 purchase of insurance when such coverage or product is not
63 required.†

64 2. Representing to the applicant that a specific ancillary
65 coverage or product is included in the policy applied for
66 without an additional charge when such charge is required.† ~~or~~

67 3. Charging an applicant for a specific ancillary coverage
68 or product, in addition to the cost of the insurance coverage



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69 applied for, without the informed consent of the applicant.

70 4. Initiating, effectuating, binding, or otherwise issuing
71 a policy of insurance without the prior informed consent of the
72 owner of the property to be insured.

73 5. Mailing, transmitting, or otherwise submitting by any
74 means an invoice for premium payment to a mortgagee or escrow
75 agent, for the purpose of effectuating an insurance policy,
76 without the prior informed consent of the owner of the property
77 to be insured. However, this subparagraph does not apply in
78 cases in which the mortgagee or escrow agent is renewing
79 insurance or issuing collateral protection insurance, as defined
80 in s. 624.6085, pursuant to the mortgage or other pertinent loan
81 documents or communications regarding the property.

82 Section 13. Effective January 1, 2022, subsection (3) of
83 section 626.9741, Florida Statutes, is amended to read:

84 626.9741 Use of credit reports and credit scores by
85 insurers.-

86 (3) An insurer must inform an applicant or insured, in the
87 same medium as the application is taken, that a credit report or
88 score is being requested for underwriting or rating purposes.
89 The notification to the consumer must include the following
90 language: "The Department of Financial Services offers free
91 financial literacy programs to assist you with insurance-related
92 questions, including how credit works and how credit scores are
93 calculated. To learn more, visit www.MyFloridaCFO.com." An
94 insurer that makes an adverse decision based, in whole or in
95 part, upon a credit report must provide at no charge, a copy of
96 the credit report to the applicant or insured or provide the
97 applicant or insured with the name, address, and telephone



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98 number of the consumer reporting agency from which the insured
99 or applicant may obtain the credit report. The insurer must
100 provide notification to the consumer explaining the reasons for
101 the adverse decision. The reasons must be provided in
102 sufficiently clear and specific language so that a person can
103 identify the basis for the insurer's adverse decision. Such
104 notification shall include a description of the four primary
105 reasons, or such fewer number as existed, which were the primary
106 influences of the adverse decision. The use of generalized terms
107 such as "poor credit history," "poor credit rating," or "poor
108 insurance score" does not meet the explanation requirements of
109 this subsection. A credit score may not be used in underwriting
110 or rating insurance unless the scoring process produces
111 information in sufficient detail to permit compliance with the
112 requirements of this subsection. It shall not be deemed an
113 adverse decision if, due to the insured's credit report or
114 credit score, the insured continues to receive a less favorable
115 rate or placement in a less favorable tier or company at the
116 time of renewal except for renewals or reunderwriting required
117 by this section.

118 Section 14. Subsection (5) of section 626.9953, Florida
119 Statutes, is amended to read:

120 626.9953 Qualifications for registration; application
121 required.—

122 (5) An applicant must submit a set of his or her
123 fingerprints to the department and pay the processing fee
124 established under s. 624.501(23) ~~s. 624.501(24)~~. The department
125 shall submit the applicant's fingerprints to the Department of
126 Law Enforcement for processing state criminal history records



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127 checks and local criminal records checks through local law
128 enforcement agencies and for forwarding to the Federal Bureau of
129 Investigation for national criminal history records checks. The
130 fingerprints shall be taken by a law enforcement agency, a
131 designated examination center, or another department-approved
132 entity. The department may not approve an application for
133 registration as a navigator if fingerprints have not been
134 submitted.

135 Section 15. Subsection (1) of section 626.9957, Florida
136 Statutes, is amended to read:

137 626.9957 Conduct prohibited; denial, revocation, or
138 suspension of registration.—

139 (1) As provided in s. 626.112, only a person licensed as an
140 insurance agent or customer representative may engage in the
141 solicitation of insurance. A person who engages in the
142 solicitation of insurance as described in s. 626.112(1) without
143 such license is subject to the penalties provided under s.
144 626.112(10) ~~s. 626.112(9)~~.

145 Section 16. Subsection (10) of section 627.062, Florida
146 Statutes, is amended to read:

147 627.062 Rate standards.—

148 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~
149 ~~627.70131(5)~~ may not be included in the insurer's rate base and
150 may not be used to justify a rate or rate change.

151 Section 17. Section 627.502, Florida Statutes, is amended
152 to read:

153 627.502 "Industrial life insurance" defined; reporting;
154 prohibition on new policies after a certain date.—

155 (1) For the purposes of this code, "industrial life



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156 insurance" is that form of life insurance written under policies
157 under which premiums are payable monthly or more often, bearing
158 the words "industrial policy" or "weekly premium policy" or
159 words of similar import imprinted upon the policies as part of
160 the descriptive matter, and issued by an insurer that ~~which~~, as
161 to such industrial life insurance, is operating under a system
162 of collecting a debit by its agent.

163 (2) Every life insurer servicing existing ~~transacting~~
164 industrial life insurance shall report to the office all annual
165 statement data regarding the exhibit of life insurance,
166 including relevant information for industrial life insurance.

167 (3) Beginning July 1, 2021, a life insurer may not write a
168 new policy of industrial life insurance.

169 Section 18. Effective January 1, 2022, section 627.70131,
170 Florida Statutes, is amended to read:

171 627.70131 Insurer's duty to acknowledge communications
172 regarding claims; investigation.-

173 (1) (a) Upon an insurer's receiving a communication with
174 respect to a claim, the insurer shall, within 14 calendar days,
175 review and acknowledge receipt of such communication unless
176 payment is made within that period of time or unless the failure
177 to acknowledge is caused by factors beyond the control of the
178 insurer which reasonably prevent such acknowledgment. If the
179 acknowledgment is not in writing, a notification indicating
180 acknowledgment shall be made in the insurer's claim file and
181 dated. A communication made to or by a representative ~~an agent~~
182 of an insurer with respect to a claim shall constitute
183 communication to or by the insurer.

184 (b) As used in this subsection, the term "representative"



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185 ~~"agent"~~ means any person to whom an insurer has granted
186 authority or responsibility to receive or make such
187 communications with respect to claims on behalf of the insurer.

188 (c) This subsection does ~~shall~~ not apply to claimants
189 represented by counsel beyond those communications necessary to
190 provide forms and instructions.

191 (2) Such acknowledgment must ~~shall~~ be responsive to the
192 communication. If the communication constitutes a notification
193 of a claim, unless the acknowledgment reasonably advises the
194 claimant that the claim appears not to be covered by the
195 insurer, the acknowledgment must ~~shall~~ provide necessary claim
196 forms, and instructions, including an appropriate telephone
197 number.

198 (3) (a) Unless otherwise provided by the policy of insurance
199 or by law, within 14 ~~10 working~~ days after an insurer receives
200 proof of loss statements, the insurer shall begin such
201 investigation as is reasonably necessary unless the failure to
202 begin such investigation is caused by factors beyond the control
203 of the insurer which reasonably prevent the commencement of such
204 investigation.

205 (b) If such investigation involves a physical inspection of
206 the property, the licensed adjuster assigned by the insurer must
207 provide the policyholder with a printed or electronic document
208 containing his or her name and state adjuster license number.

209 (c) Any subsequent communication with the policyholder
210 regarding the claim must also include the name and license
211 number of the adjuster communicating about the claim.

212 Communication of the adjuster's name and license number may be
213 included with other information provided to the policyholder.



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214 (4) An insurer shall maintain a record or log of each
215 adjuster who communicates with the policyholder as provided in
216 paragraphs (3) (b) and (c) and provide a list of such adjusters
217 to the insured, office, or department upon request.

218 (5) For purposes of this section, the term "insurer" means
219 any residential property insurer.

220 (6) (a) When providing a preliminary or partial estimate of
221 damage regarding a claim, an insurer shall include with the
222 estimate the following statement printed in at least 12-point
223 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
224 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND
225 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
226 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
227 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

228 (b) When providing a payment on a claim which is not the
229 full and final payment for the claim, an insurer shall include
230 with the payment the following statement printed in at least 12-
231 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
232 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
233 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
234 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
235 US.

236 (7) (a) ~~(5) (a)~~ Within 90 days after an insurer receives
237 notice of an initial, reopened, or supplemental property
238 insurance claim from a policyholder, the insurer shall pay or
239 deny such claim or a portion of the claim unless the failure to
240 pay is caused by factors beyond the control of the insurer which
241 reasonably prevent such payment. Any payment of an initial or
242 supplemental claim or portion of such claim made 90 days after



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243 the insurer receives notice of the claim, or made more than 15
244 days after there are no longer factors beyond the control of the
245 insurer which reasonably prevented such payment, whichever is
246 later, bears interest at the rate set forth in s. 55.03.
247 Interest begins to accrue from the date the insurer receives
248 notice of the claim. The provisions of this subsection may not
249 be waived, voided, or nullified by the terms of the insurance
250 policy. If there is a right to prejudgment interest, the insured
251 shall select whether to receive prejudgment interest or interest
252 under this subsection. Interest is payable when the claim or
253 portion of the claim is paid. Failure to comply with this
254 subsection constitutes a violation of this code. However,
255 failure to comply with this subsection does not form the sole
256 basis for a private cause of action.

257 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of
258 this subsection, the term "claim" means any of the following:

259 1. A claim under an insurance policy providing residential
260 coverage as defined in s. 627.4025(1);

261 2. A claim for structural or contents coverage under a
262 commercial property insurance policy if the insured structure is
263 10,000 square feet or less; or

264 3. A claim for contents coverage under a commercial tenant
265 policy if the insured premises is 10,000 square feet or less.

266 (c) This subsection does ~~shall~~ not apply to claims under an
267 insurance policy covering nonresidential commercial structures
268 or contents in more than one state.

269 (8) This section also applies to surplus lines insurers and
270 surplus lines insurance authorized under ss. 626.913-626.937
271 providing residential coverage.



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272 Section 19. Effective January 1, 2022, section 627.7142,
273 Florida Statutes, is amended to read:

274 627.7142 Homeowner Claims Bill of Rights.—An insurer
275 issuing a personal lines residential property insurance policy
276 in this state must provide a Homeowner Claims Bill of Rights to
277 a policyholder within 14 days after receiving an initial
278 communication with respect to a claim, ~~unless the claim follows~~
279 ~~an event that is the subject of a declaration of a state of~~
280 ~~emergency by the Governor.~~ The purpose of the bill of rights is
281 to summarize, in simple, nontechnical terms, existing Florida
282 law regarding the rights of a personal lines residential
283 property insurance policyholder who files a claim of loss. The
284 Homeowner Claims Bill of Rights is specific to the claims
285 process and does not represent all of a policyholder's rights
286 under Florida law regarding the insurance policy. The Homeowner
287 Claims Bill of Rights does not create a civil cause of action by
288 any individual policyholder or class of policyholders against an
289 insurer or insurers. The failure of an insurer to properly
290 deliver the Homeowner Claims Bill of Rights is subject to
291 administrative enforcement by the office but is not admissible
292 as evidence in a civil action against an insurer. The Homeowner
293 Claims Bill of Rights does not enlarge, modify, or contravene
294 statutory requirements, including, but not limited to, ss.
295 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
296 not prohibit an insurer from exercising its right to repair
297 damaged property in compliance with the terms of an applicable
298 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
299 Claims Bill of Rights must state:

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HOMEOWNER CLAIMS

BILL OF RIGHTS

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

YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 14 days after the time you communicated the claim.

2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.

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



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claim.

4. Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 days after your claim is filed. The interest, if applicable, must be paid when your claim or the undisputed portion of your claim is paid.

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

~~6.5.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

~~7.6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at...(toll-free phone number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at...(website address)....

YOU ARE ADVISED TO:



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- 359 1. File all claims directly with your insurance
360 company.
- 361 2. Contact your insurance company before entering
362 into any contract for repairs to confirm any managed
363 repair policy provisions or optional preferred
364 vendors.
- 365 ~~3.2.~~ Make and document emergency repairs that are
366 necessary to prevent further damage. Keep the damaged
367 property, if feasible, keep all receipts, and take
368 photographs or video of damage before and after any
369 repairs to provide to your insurer.
- 370 ~~4.3.~~ Carefully read any contract that requires
371 you to pay out-of-pocket expenses or a fee that is
372 based on a percentage of the insurance proceeds that
373 you will receive for repairing or replacing your
374 property.
- 375 ~~5.4.~~ Confirm that the contractor you choose is
376 licensed to do business in Florida. You can verify a
377 contractor's license and check to see if there are any
378 complaints against him or her by calling the Florida
379 Department of Business and Professional Regulation.
380 You should also ask the contractor for references from
381 previous work.
- 382 ~~6.5.~~ Require all contractors to provide proof of
383 insurance before beginning repairs.
- 384 ~~7.6.~~ Take precautions if the damage requires you
385 to leave your home, including securing your property
386 and turning off your gas, water, and electricity, and
387 contacting your insurance company and provide a phone



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388 number where you can be reached.

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390 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

391 And the directory clause is amended as follows:

392 Delete lines 231 - 232

393 and insert:

394 section 626.854, Florida Statutes, are amended, and subsections
395 (20) and (21) are added to that section, to read:

396

397 ===== T I T L E A M E N D M E N T =====

398 And the title is amended as follows:

399 Delete lines 50 - 79

400 and insert:

401 licensure; prohibiting specified persons from charging
402 insureds or third-party claimants or receiving
403 payments under certain circumstances; amending s.
404 626.916, F.S.; revising disclosure requirements for
405 certain classes of insurance before being eligible for
406 export under the Surplus Lines Law; amending s.
407 626.9541, F.S.; adding certain acts or practices to
408 the definition of sliding; amending s. 626.9741, F.S.;
409 requiring an insurer to include certain additional
410 information when providing an applicant or insured
411 with certain credit report or score information;
412 amending ss. 626.9953, 626.9957, and 627.062, F.S.;
413 conforming cross-references; amending s. 627.502,
414 F.S.; prohibiting life insurers from writing new
415 policies of industrial life insurance beginning on a
416 certain date; making technical changes; amending s.



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417 627.70131, F.S.; providing that a communication made
418 to or by an insurer's representative, rather than to
419 or by an insurer's agent, constitutes communication to
420 or by the insurer; defining the term "representative",
421 rather than "agent"; revising the timeframe for
422 insurers to begin certain investigations; requiring an
423 insurer-assigned licensed adjuster to provide the
424 policyholder with certain information in certain
425 investigations; requiring insurers to maintain certain
426 records and provide certain lists upon request;
427 requiring insurers to include specified notices when
428 providing preliminary or partial damage estimates or
429 claim payments; providing applicability; conforming
430 provisions to changes made by the act;