The Committee on Judiciary (Boyd and Brandes) recommended the following:

**Senate Substitute for Amendment (372938) (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsections (3) and (4) are added to section 626.9373, Florida Statutes, to read:

626.9373 Attorney’s fees.—

(3) In an award of attorney fees under this section for a claim arising under a property insurance policy, a strong
presumption is created that a lodestar fee is sufficient and reasonable. Such presumption may be rebutted only in a rare and exceptional circumstance with evidence that competent counsel could not be retained in a reasonable manner.

(4)(a) As used in this subsection, the term:

1. “Claimant” means an insured or assignee who is filing suit under a property insurance policy.

2. “Demand” means the specific amount alleged to be owed by the insurer to the claimant under the property insurance policy.

3. “Demand-judgment quotient” means the quotient obtained by dividing the judgment by the demand.

4. “Incurred attorney fees” means the total amount of attorney fees supported by sufficient evidence and determined by the court to have been incurred by the claimant in bringing the action.

5. “Judgment” means damages recovered, if any, but does not include any amount awarded for attorney fees, costs, or interest.

(b) Notwithstanding any other provision of law, in a suit arising under a residential or commercial property insurance policy, attorney fees and costs may be recovered by a claimant only pursuant to s. 57.105 and this subsection. Attorney fees may be awarded to a claimant under this section as follows:

1. If the demand-judgment quotient is greater than or equal to 0.8, the full amount of incurred attorney fees may be awarded.

2. If the demand-judgment quotient is equal to or greater than 0.2 but less than 0.8, the attorney fees must equal the product of multiplying the incurred attorney fees by the demand-
judgment quotient.

3. If the demand-judgment quotient is less than 0.2, attorney fees may not be awarded.

Section 2. Subsection (4) is added to section 627.428, Florida Statutes, to read:

627.428 Attorney fees.—

(4) In an award of attorney fees under this section for a claim arising under a property insurance policy, a strong presumption is created that a lodestar fee is sufficient and reasonable. Such presumption may be rebutted only in a rare and exceptional circumstance with evidence that competent counsel could not be retained in a reasonable manner.

Section 3. Paragraphs (f), (g), and (h) are added to subsection (5) of section 627.7011, Florida Statutes, to read:

627.7011 Homeowners’ policies; offer of replacement cost coverage and law and ordinance coverage.—

(5) This section does not:

(f) Prohibit an insurer, notwithstanding paragraph (1)(a), from providing limited coverage on a personal lines residential property insurance policy by including a roof surface reimbursement schedule. If included in the policy, a roof surface reimbursement schedule must do all of the following:

1. Provide reimbursement for repair, replacement, and installation based on the annual age of a roof surface type.

2. Provide full replacement coverage for any roof surface type less than 10 years old.

3. Unless otherwise demonstrated to the office to be actuarially justified, provide for reimbursement amounts of no less than:
a. Seventy percent for a metal roof type.
b. Forty percent for a concrete tile and clay tile roof type.
c. Forty percent for a wood shake and wood shingle roof type.
d. Twenty-five percent for all other roof types.

4. Include at the top of the schedule, in bold type no smaller than 12 points, the following statement:

“PLEASE DISCUSS WITH YOUR INSURANCE AGENT. YOU ARE ELECTING TO PURCHASE COVERAGE ON YOUR ROOF ACCORDING TO A ROOF SURFACE REIMBURSEMENT SCHEDULE. IF YOUR ROOF IS DAMAGED BY A COVERED PERIL, YOU WILL RECEIVE A PAYMENT AMOUNT FOR YOUR ROOF ACCORDING TO THE SCHEDULE BELOW. BE ADVISED THAT THIS MAY RESULT IN YOU HAVING TO PAY SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR ROOF. PLEASE DISCUSS WITH YOUR INSURANCE AGENT.”

5. Allow for all actuarially sound methods of s. 627.062 to apply.
6. Be approved by the office.
7. Be provided to the insured with the policy documents at issuance and renewal.

A roof surface reimbursement schedule may not be applied to a roof if there is a total loss to a primary structure in accordance with the valued policy law under s. 627.702 which is caused by a covered peril.

(g) Prohibit an insurer that provides roof reimbursement on the basis of a roof surface reimbursement schedule from also
offering roof reimbursement on the basis of replacement costs.

(h) Prohibit an insurer, notwithstanding paragraph (1)(a), from providing coverage on a personal lines residential property insurance policy by limiting coverage for a roof to a stated value sublimit of coverage. A stated value sublimit of coverage may not be applied to a roof if there is a total loss to the primary structure in accordance with the valued policy law under s. 627.702 which is caused by a covered peril.

Section 4. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of property insurance windstorm or hurricane claim.—A claim, supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, including a property insurance policy issued by an eligible surplus lines insurer, for loss or damage caused by the peril of windstorm or hurricane is barred unless notice of the claim, supplemental claim, or reopened claim is given to the insurer in accordance with the terms of the policy within 23 years after the date of loss hurricane first made landfall or the windstorm caused the covered damage. For purposes of this section, the term “supplemental claim” or “reopened claim” means any additional claim for recovery from the insurer for losses from the same hurricane or windstorm which the insurer has previously adjusted pursuant to the initial claim. This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 5. Subsection (9) of section 627.7015, Florida
Statutes, is amended, and subsection (10) is added to that section, to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(9) For purposes of this section, the term “claim” refers to any dispute between an insurer and a policyholder relating to a material issue of fact other than a dispute:

(a) With respect to which the insurer has a reasonable basis to suspect fraud;

(b) When, based on agreed-upon facts as to the cause of loss, there is no coverage under the policy;

(c) With respect to which the insurer has a reasonable basis to believe that the policyholder has intentionally made a material misrepresentation of fact which is relevant to the claim, and the entire request for payment of a loss has been denied on the basis of the material misrepresentation;

(d) With respect to which the amount in controversy is less than $500, unless the parties agree to mediate a dispute involving a lesser amount; or

(e) With respect to a windstorm or hurricane loss that does not comply with s. 627.70132.

(10) A property insurance policy may require the policyholder as a first-party claimant and a third party as an assignee of the policy benefits to participate in mediation pursuant to this section if requested by the insurer.

Section 6. Section 627.70152, Florida Statutes, is created to read:

627.70152 Suits arising under a property insurance policy.—

(1) APPLICATION.—This section applies to all suits under a
property insurance policy, including actions brought by an assignee.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Assignee” has the same meaning as in s. 627.7152.
(b) “Claimant” means an insured or assignee who is filing suit under a property insurance policy.
(c) “Demand” means the specific amount alleged to be owed by the insurer to the claimant under the property insurance policy.
(d) “Demand-judgment quotient” means the quotient obtained by dividing the judgment by the demand.
(e) “Incurred attorney fees” means the total amount of attorney fees supported by sufficient evidence and determined by the court to have been incurred by the claimant in bringing the action.
(f) “Judgment” means damages recovered, if any, but does not include any amount awarded for attorney fees, costs, or interest.

(3) NOTICE.—

(a) As a condition precedent to filing a suit under a property insurance policy, a claimant must provide the insurer a written notice of intent to initiate litigation in accordance with this section. Such notice must be served by certified mail, return receipt requested, or electronic delivery at least 60 days before filing suit. However, such notice may not be served before the insurer has made a determination of coverage under s. 627.70131. An attorney or other representative of the claimant who provides such notice must provide a copy of the notice to the claimant. The notice and any copy must specify:
1. That the notice is being provided pursuant to this section;
2. The alleged acts or omissions of the insurer giving rise to the action;
3. The demand;
4. The amount of reasonable and necessary attorney fees incurred by the claimant, to be calculated by multiplying the number of hours actually worked on the claim as of the date of the notice by the claimant’s attorney by a reasonable hourly rate; and
5. If provided by an attorney or other representative, that a copy of the notice was provided to the claimant.

(b) As a precondition to filing suit, an assignee also must:
   1. Comply with s. 627.7152; and
   2. Concurrent with the notice, provide the named insured, the insurer, and the assignor, if not the named insured, a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the case of work performed, proof that the work has been performed in accordance with accepted industry standards.

(c) A notice of intent to initiate litigation must be served within the time limits provided in s. 95.11 and is not required if the action is a counterclaim. Service of a notice tolls the time limits provided in s. 95.11 for 60 days if such time limits will expire before the end of the 60-day notice period.

(d) A court must dismiss without prejudice any action
relating to a claim for which a notice of intent to initiate litigation is given as required by this subsection if such action is commenced before the expiration of the 60-day notice period, is brought by an insurer to whom notice was given, and is against the claimant giving notice.

(4) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice provided pursuant to subsection (3) and the submissions provided pursuant to subparagraph (3)(b)2.:  
   (a) Are admissible as evidence in a civil action or an alternative dispute resolution proceeding relating to the claim for which the notice is given;  
   (b) Do not limit the evidence of attorney fees, damages, or loss which may be offered at trial; and  
   (c) Do not relieve any obligation that an insured or assignee has to give notice under any other provision of law.

(5) INSPECTION.—Within 30 days after an insurer receives notice pursuant to subsection (3), the insurer may send a written request to the insured or assignee to inspect, photograph, or evaluate, in a reasonable manner and at a reasonable time, the property that is the subject of the claim. If reasonably possible, the insurer must complete the inspection, photography, and evaluation not later than 60 days after the insurer receives the presuit notice. After completing the inspection, the insurer must conduct an internal review by a duly-qualified claims adjuster to fairly and promptly evaluate the claim. This section does not limit any right provided in a property insurance policy or contract to inspect property.

(6) ABATEMENT.—  
   (a) In addition to taking any other action allowed by an
insurance policy or a contract or by any other provision of law, an insurer may file a motion to abate a suit under a property insurance policy if the insurer:

1. Files the motion no later than the 30th day after the insurer filed an original answer in the court in which the action is pending; and

2. Did not receive notice required pursuant to subsection (3) or requested an inspection pursuant to subsection (5) but was not provided a reasonable opportunity to inspect, photograph, or evaluate the property that is the subject of the claim.

(b) The court shall abate the action if the court finds that the insurer did not receive the notice required by subsection (3) or requested an inspection pursuant to subsection (5) but was not provided a reasonable opportunity to inspect, photograph, or evaluate the property that is the subject of the claim.

(c) The action is abated without a court order beginning on the 11th day after the motion to abate is filed if the motion to abate:

1. Is verified and states that the insurer did not receive the notice required by subsection (3) or requested an inspection pursuant to subsection (5) but was not provided a reasonable opportunity to inspect, photograph, or evaluate the property that is the subject of the claim; and

2. Is not controverted by an affidavit filed by the insured or assignee within 10 days after the date the plea in abatement is filed.

(d) An affidavit filed pursuant to subparagraph (c)2. must
include as an attachment a copy of the written notice sent pursuant to subsection (3) and state the date on which such notice was given.

(e) Abatement under this subsection continues until the later of:

1. Sixty days after the claimant provides notice to the insurer in compliance with subsection (3); or

2. Fifty days after the insurer completes the requested inspection, photographing, or evaluating of the property pursuant to subsection (5).

(f) If an action is abated pursuant to this subsection, a court may not compel during the abatement period participation in mediation pursuant to s. 627.7015 or neutral evaluation pursuant to s. 627.7074.

(7) ATTORNEY FEES.—

(a) Notwithstanding any other provision of law, in a suit arising under a residential or commercial property insurance policy, attorney fees and costs may be recovered by a claimant only pursuant to s. 57.105 and this subsection. Attorney fees may be awarded to a claimant under this section as follows:

1. If the demand-judgment quotient is greater than or equal to 0.8, the full amount of incurred attorney fees may be awarded.

2. If the demand-judgment quotient is equal to or greater than 0.2 but less than 0.8, the attorney fees must equal the product of multiplying the incurred attorney fees by the demand-judgment quotient.

3. If the demand-judgment quotient is less than 0.2, attorney fees may not be awarded.
(b) If an insurer pleads and proves that it did not receive notice that complies with subsection (3) and files such pleading no later than the 30th day after the insurer files an original answer in the court in which the action is pending, the court may not award to the claimant any incurred attorney fees for services rendered after the date on which the insurer files such pleading with the court.

(c) If a claimant commences an action in any court of this state based upon or including the same claim against the same adverse party that such insured or assignee has previously voluntarily dismissed in a court of this state, the court may order the insured or assignee to pay the attorney fees and costs of the adverse party resulting from the action previously voluntarily dismissed. The court shall stay the proceedings in the subsequent action until the insured or assignee has complied with the order.

Section 7. Section 627.70153, Florida Statutes, is created to read:

627.70153 Consolidation of residential property insurance actions.—Each party that is aware of ongoing multiple actions involving coverage provided under the same residential property insurance policy for the same property with the same owners must provide written notice to the court of the multiple actions. Upon notification of any party, the court may order that the actions be consolidated and transferred to the court having jurisdiction based on the total amount in controversy of all consolidated claims. If multiple cases are pending in circuit courts, the cases may be consolidated based on the date on which the first case was filed.
Section 8. Paragraphs (d) through (g) of subsection (1), paragraph (a) of subsection (2), and subsections (5), (9), and (10) of section 627.7152, Florida Statutes, are amended to read:

627.7152 Assignment agreements.—

(1) As used in this section, the term:

(d) “Disputed amount” means the difference between the assignee’s presuit settlement demand and the insurer’s presuit settlement offer.

(e) “Judgment obtained” means damages recovered, if any, but does not include any amount awarded for attorney fees, costs, or interest.

(f) “Presuit settlement demand” means the demand made by the assignee in the written notice of intent to initiate litigation as required by paragraph (9)(a).

(g) “Presuit settlement offer” means the offer made by the insurer in its written response to the notice of intent to initiate litigation as required by paragraph (9)(b).

(2)(a) An assignment agreement must:

1. Be in writing and executed by and between the assignor and the assignee.

2. Contain a provision that allows the assignor to rescind the assignment agreement without a penalty or fee by submitting a written notice of rescission signed by the assignor to the assignee within 14 days after the execution of the agreement, at least 30 days after the date work on the property is scheduled to commence if the assignee has not substantially performed, or at least 30 days after the execution of the agreement if the agreement does not contain a commencement date and the assignee has not begun substantial work on the property.
3. Contain a provision requiring the assignee to provide a copy of the executed assignment agreement to the insurer and the named insured within 3 business days after the date on which the assignment agreement is executed or the date on which work begins, whichever is earlier. Delivery of the copy of the assignment agreement to the insurer and the named insured may be made:

   a. By personal service, overnight delivery, or electronic transmission, with evidence of delivery in the form of a receipt or other paper or electronic acknowledgment by the insurer or named insured, as applicable; or

   b. To the location designated for the insurer’s receipt of such agreements as specified in the policy.

4. Contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee.

5. Relate only to work to be performed by the assignee for services to protect, repair, restore, or replace a dwelling or structure or to mitigate against further damage to such property.

6. Contain the following notice in 18-point uppercase and boldfaced type:

   YOU ARE AGREETING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT WITHOUT PENALTY WITHIN 14 DAYS AFTER THE DATE THIS AGREEMENT IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON
THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE HAS NOT SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS AFTER THE EXECUTION OF THE AGREEMENT IF THE AGREEMENT DOES NOT CONTAIN A COMMENCEMENT DATE AND THE ASSIGNEE HAS NOT BEGUN SUBSTANTIAL WORK ON THE PROPERTY. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED. THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

7. Contain a provision requiring the assignee to indemnify and hold harmless the assignor from all liabilities, damages, losses, and costs, including, but not limited to, attorney fees, should the policy subject to the assignment agreement prohibit, in whole or in part, the assignment of benefits.

(5) An assignment agreement and this section do not modify or eliminate:

(a) Any term, condition, or defense relating to any managed repair arrangement provided in the policy.

(b) The right of an insurer to communicate directly with the named insured if such insured is not represented by counsel.

(9)(a) An assignee must provide the named insured, insurer, and the assignor, if not the named insured, with a written notice of intent to initiate litigation before filing suit under the policy. Such notice must be served by certified mail, return receipt requested, or electronic delivery at least 10 business days before filing suit, but may not be served before the insurer has made a determination of coverage under s. 627.7013.
The notice must specify the damages in dispute, the amount claimed, and a presuit settlement demand. Concurrent with the notice, and as a precondition to filing suit, the assignee must provide the named insured, insurer, and the assignor, if not the named insured, a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the case of work performed, proof that the work has been performed in accordance with accepted industry standards.

(b) An insurer must respond in writing to the notice within 10 business days after receiving the notice specified in paragraph (a) by making a presuit settlement offer or requiring the assignee to participate in appraisal or other method of alternative dispute resolution under the policy. An insurer must have a procedure for the prompt investigation, review, and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code.

(10) Notwithstanding any other provision of law, in a suit related to an assignment agreement for post-loss claims arising under a residential or commercial property insurance policy, attorney fees and costs may be recovered by an assignee only under s. 57.105 and this subsection.

(a) If the difference between the judgment obtained by the assignee and the presuit settlement offer is:

1. Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.

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

(b) If the insurer fails to inspect the property or provide written or oral authorization for repairs within 7 calendar days after the first notice of loss, the insurer waives its right to an award of attorney fees under this subsection. If the failure to inspect the property or provide written or oral authorization for repairs is the result of an event for which the Governor had declared a state of emergency under s. 252.36, factors beyond the control of the insurer which reasonably prevented an inspection or written or oral authorization for repairs, or the named insured’s failure or inability to allow an inspection of the property after a request by the insurer, the insurer does not waive its right to an award of attorney fees under this subsection.

(c) If an assignee commences an action in any court of this state based upon or including the same claim against the same adverse party that such assignee has previously voluntarily dismissed in a court of this state, the court may order the assignee to pay the attorney fees and costs of the adverse party resulting from the action previously voluntarily dismissed. The court shall stay the proceedings in the subsequent action until the assignee has complied with the order.

Section 9. The Supreme Court of Florida is requested to amend the Rules of Professional Conduct of the Rules Regulating The Florida Bar to require that, when a recovery judgment has been awarded in a residential or commercial residential property claim, each participating lawyer or law firm must provide
closing statements itemizing the amount of the fee received by
each participating lawyer or law firm, costs, and expenses to
the Department of Financial Services.

Section 10. This act shall take effect July 1, 2021.

And the title is amended as follows:
Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to property insurance; amending s.
626.9373, F.S.; providing that, for certain attorney
fees awarded for claims arising under surplus lines
property insurance policies, a strong presumption is
created that a lodestar fee is sufficient and
reasonable; providing that such presumption may be
rebutted only under certain circumstances; defining
terms; providing for an award of attorney fees for
certain claims under specified circumstances; amending
s. 627.428, F.S.; providing that, for certain attorney
fees awarded for claims arising under property
insurance policies, a strong presumption is created
that a lodestar fee is sufficient and reasonable;
providing that such presumption may be rebutted only
under certain circumstances; amending s. 627.7011,
F.S.; providing that certain provisions relating to
homeowners’ policies, offers of replacement cost
coverage, and offers of law and ordinance coverage do
not prohibit insurers from providing specified
property insurance policies by including roof surface reimbursement schedules; providing requirements for roof surface reimbursement schedules; prohibiting application of a roof surface reimbursement schedule under certain circumstances; providing that certain provisions relating to homeowners’ policies, offers of replacement cost coverage, and offers of law and ordinance coverage do not prohibit insurers from providing specified property insurance policies by offering roof reimbursement on the basis of replacement costs; providing that certain provisions relating to homeowners’ policies, offers of replacement cost coverage, and offers of law and ordinance coverage do not prohibit insurers from providing coverage on specified property insurance policies for a roof that is limited to a certain value; providing that a stated value sublimit of coverage may not be applied to a roof in certain circumstances; amending s. 627.70132, F.S.; revising property insurance coverages for which a notice of claim must be given to the insurer within a specified timeframe; revising the timeframe for providing notices of property insurance claims; revising the definitions of the terms “supplemental claim” and “reopened claim”; amending s. 627.7015, F.S.; conforming a provision to changes made by the act; authorizing property insurance policies to require policyholders and assignees to participate in mediation; creating s. 627.70152, F.S.; providing
applicability; defining terms; requiring notice of intent to initiate litigation; specifying requirements for such notice; specifying an assignee’s presuit obligations; specifying the timeframe within which a notice of intent to initiate litigation must be served; requiring dismissal of certain actions under specified circumstances; specifying the admissibility of certain evidence; providing construction; authorizing an insurer to request to inspect, photograph, or evaluate certain property; specifying requirements for such inspections, photographs, and evaluations; authorizing motions to abate suits under property insurance policies; specifying conditions for abatement; providing for an award of attorney fees for certain claims under specified circumstances; providing for an award of attorney fees following a voluntary dismissal under certain circumstances; requiring the court to stay proceedings under certain circumstances; creating s. 627.70153, F.S.; requiring parties that are aware of certain residential property insurance claims to notify the court of multiple proceedings; authorizing the court to consolidate certain residential property insurance claims upon notification of any party; amending s. 627.7152, F.S.; deleting definitions; requiring assignment agreements to be provided to named insureds; providing that assignment agreements do not modify the right of insurers to communicate directly with unrepresented named insureds; deleting a requirement for a notice of
intent to initiate litigation; deleting requirements for such notice; deleting a requirement for a written response to the notice of intent to initiate litigation; deleting requirements for such response; deleting a provision related to an award of reasonable attorney fees and costs for certain claims arising under an assignment agreement; deleting a provision related to an award of reasonable attorney fees and costs following a voluntary dismissal under certain circumstances; deleting a requirement for the court to stay proceedings under certain circumstances; requesting the Florida Supreme Court to amend rules to require participating lawyers or firms to provide closing statements to the department under certain circumstances; providing an effective date.