

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 815 Insurance  
**SPONSOR(S):** Insurance & Banking Subcommittee, Gregory  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 742

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	18 Y, 0 N, As CS	Rowley	Luczynski
2) State Administration & Technology Appropriations Subcommittee	13 Y, 0 N	Lee	Topp
3) Commerce Committee			

### SUMMARY ANALYSIS

The bill makes the following changes regarding insurance:

**Florida Hurricane Catastrophe Fund (FHCF) Coverage** – Modifies when collateral protection insurance is eligible for FHCF coverage.

**Service of Process** – Provides that service of process is perfected on an insurer when process served on the Department of Financial Services (DFS) is delivered to the insurer or DFS has notified the insurer of its availability online.

**Meeting Requirements** – Authorizes certain entities to use communications media technology to establish a quorum and conduct public business.

**Loss Run Statements** – Makes clarifying changes to the statutes that provide a framework for insurers to respond to loss run statement requests and eliminates a conflict between these statutes and a statute specific to health insurance loss run statements.

**Hurricane Modeling** – Provides that a property insurer may use a weighted or straight average of two or more approved hurricane models in a rate filing.

**Mitigation Credits in Residential Property Insurance Rate Filings** – Makes the use of building code enforcement rating factors in rating plans optional and allows insurers to give mitigation credit for evaluation by, and compliance with, standards developed by an independent, not-for-profit, scientific research organization.

**Workers' Compensation Insurance Reporting Requirements** – Provides for a new factor in the determination and fixing of workers' compensation and employer's liability insurance rates.

**Citizens Property Insurance Corporation** – Allows Citizens the option to insure residential condominiums under commercial residential wind-only coverage if the units are intended for residential use, but are rented on a short-term basis.

**Policy Documents** – Authorizes electronic transmission of policy documents and claims communications and revises notice requirements for certain automobile insurance policies.

**Replacement Cost Coverage and Law and Ordinance Coverage** – Clarifies the laws and ordinances that are applicable to a particular covered loss are those that were enacted on or before the date of that loss.

**Export of Flood Coverage to Surplus Lines** – Reenacts the exemption from diligent search efforts when an agent is placing flood insurance on the surplus lines market.

**Assignment Agreements** – Expands the scope of services covered under the definition of "assignment agreement", changes notification requirements, and provides that fees charged by a public adjuster are not included in the definition of "assignment agreement".

**Agent Licensing** – Allows licensed general or personal lines agents to sell service agreements or warranties without a salesperson or sales representative license, expands the definition of "company employee adjuster", and adds a designation related to the qualifications for customer representative licensure.

The bill has no impact on state or local government revenues or expenditures. It has an unknown direct economic impact on the private sector.

Except where otherwise provided, the bill is effective on July 1, 2021.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Hurricane Catastrophe Fund – Collateral Protection Insurance**

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt trust fund created by the Legislature in 1993 as a form of reinsurance for residential property losses.<sup>1</sup> The FHCF is administered by the State Board of Administration and reimburses property insurers for a selected percentage of hurricane losses to residential property above the insurer's retention (deductible).<sup>2</sup> As a condition of doing business in Florida, property insurers are required to enter into reimbursement contracts with the FHCF. The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing reimbursements to insurers for a portion of their catastrophic hurricane losses.

The FHCF reimburses its participating insurers for losses on covered policies, subject to limitations.<sup>3</sup> Covered policies include collateral protection insurance<sup>4</sup> policies covering personal residences that protect both the borrower's and the lender's financial interests, in an amount at least equal to the coverage for the dwelling in place under the lapsed homeowner's policy, if such policy meets certain statutory conditions.<sup>5</sup>

Collateral protection insurance is placed by an insurer when a borrower's policy on the property has lapsed. Sometimes, the insurer is unable to obtain correct information from the homeowner and places coverage at an amount other than the amount of the homeowner's lapsed policy. This can create a discrepancy between the coverage in place and the amount of the homeowner's lapsed policy, which makes the policy ineligible for FHCF coverage.

##### *Effect of the Bill*

The bill amends the conditions for which a collateral protection insurance policy can be considered a "covered policy" and thus eligible for FHCF coverage. The bill provides that a collateral protection insurance policy is eligible for coverage if it is placed for the amount of the last known coverage, the amount the homeowner was notified of, or the amount that the homeowner requests, in addition to the current law requirement that it also protects the homeowner's interest.

##### **Service of Process**

The law provides for the designation of a public officer, board, agency, or commission as the agent for service of process on a person, firm, or corporation in Florida.<sup>6</sup> The Chief Financial Officer (CFO) is designated as the agent for service of process on insurers and other specific entities or persons licensed by the Department of Financial Services (DFS) and the Office of Insurance Regulation (OIR).<sup>7</sup> Service of process on the CFO is made by mail, personal service, or via the e-portal.<sup>8</sup>

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<sup>1</sup> S. 215.555, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> S. 215.555(1)(d), F.S.

<sup>4</sup> "Collateral protection insurance" means commercial property insurance under which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is triggered by the mortgagor's failure to maintain insurance coverage as required by the mortgage or other lending document. Collateral protection insurance is not residential coverage. S. 624.6085, F.S.

<sup>5</sup> S. 215.555(2)(c), F.S.

<sup>6</sup> S. 48.151, F.S.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*; Florida Department of Financial Services, <https://www.myfloridacfo.com/division/generalcounsel/service-of-process/> (last visited Mar. 7, 2021).

After receiving service of process, the CFO is required to promptly send a copy by registered or certified mail, or by any other verifiable means, to the person designated by the insurer to receive the process.<sup>9</sup> “Verifiable means” includes making the documents available by electronic transmission from a secure website established by DFS.<sup>10</sup> If the documents are made available electronically, the CFO is required to send a notice of receipt of process to the person designated by the insurer to receive legal process.<sup>11</sup> The notice must state the date and manner in which the copy of the process was made available and contain a hyperlink to obtain a copy of the process.<sup>12</sup>

Service is considered perfected on an insurer when the CFO is served with process.<sup>13</sup> Although an insurer is not required to respond to a lawsuit except within 20 days after the date the CFO sends or makes available a copy of the process, the triggering date for other legal deadlines is the date the CFO is served with process.<sup>14</sup> This can create problems for an insurer when there is a delay between the time the CFO is served and the time the CFO notifies the insurer of the process.

#### *Effect of the Bill*

The bill provides that service of process is perfected on an insurer when the process served on the CFO is delivered to the insurer or the insurer is notified that a copy of the process is available on DFS’s website.

### **Meeting Requirements**

Current law does not address whether associations, trusts, and pools formed to provide self-insurance for public entities can establish a quorum and conduct public business virtually.

#### *Effect of the Bill*

The bill authorizes associations, trusts, and pools formed to provide self-insurance for public entities to establish a quorum and conduct public business through communications media technology.

### **Company Employee Adjuster**

DFS, through its Division of Insurance Agent and Agency Services, regulates the licensure of insurance adjusters.<sup>15</sup> An adjuster may be licensed as either an “all-lines adjuster” or a “public adjuster.”<sup>16</sup> A company employee adjuster is “a person licensed as an all-lines adjuster who is appointed and employed on an insurer’s staff of adjusters or a wholly owned subsidiary of the insurer, and who undertakes on behalf of such insurer or other insurers under common control or ownership to ascertain and determine the amount of any claim, loss, or damage payable under a contract of insurance, or undertakes to effect settlement of such claim, loss, or damage.”<sup>17</sup>

#### *Effect of the Bill*

The bill expands the definition of a “company employee adjuster” to include a licensed all-lines adjuster who is appointed and employed by an insurer’s affiliate.

### **Customer Representative**

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<sup>9</sup> S. 624.423, F.S.

<sup>10</sup> S. 624.307(9), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> S. 624.423(3), F.S.

<sup>14</sup> S. 624.423(2), F.S.

<sup>15</sup> Division of Insurance Agent and Agency Services, <https://myfloridacfo.com/Division/Agents/> (last visited Mar. 3, 2021).

<sup>16</sup> S. 626.864, F.S. An individual may be licensed as either an all-lines adjuster or a public adjuster, but not both. An all-lines adjuster may be appointed as one, but no more than one at a time, of the following: independent adjuster, public adjuster apprentice, or company employee adjuster.

<sup>17</sup> S. 626.856, F.S.

To qualify for licensure as a customer representative, an applicant must, among other requirements, within 4 years preceding the date an application was filed with DFS, earn a designation from the list of approved designations or a degree from an accredited institution.<sup>18</sup>

#### *Effect of the Bill*

The bill adds the designation of Insurance Customer Service Representative (ICSR) from Statewide Insurance Associates LLC to the list of designations.

### **Loss Run Statements**

A loss run statement<sup>19</sup> is a report from an insurer that shows how many claims a specific insured has filed under that insured's policy during a particular period of time.<sup>20</sup> This report can be provided to a prospective insurer when an insured is shopping for a new insurance policy.<sup>21</sup> The prospective insurer can use the loss run statement to review the types, frequency, and dollar value of prior claims in order to determine whether to write a policy for the prospective insured and what premium to charge for that policy.<sup>22</sup> Prospective insurers often want to review loss run statements showing a loss run history from three to five years to make decisions about writing insurance policies.<sup>23</sup>

While insureds may request loss run statements for any line of insurance, insureds seeking new general liability, business owner's, commercial property, commercial auto insurance, or workers' compensation insurance, often request them to shop for new insurance<sup>24</sup> upon cancellation or nonrenewal of a policy by an insurer or when the insured chooses to shop for new insurance at the time a policy is up for renewal. Some insurers, especially those providing commercial lines coverage or workers' compensation insurance, have existing loss runs systems that allow their insureds to log into a portal and to obtain their own detailed reports on claims.<sup>25</sup> However, other insurers, in these and other lines of insurance, may provide insureds with loss run statements that they have created upon request or direct the insureds to obtain such statements from their agents of record.

Statutes enacted in 2020 established a statutory framework regarding when and how insurers must provide loss run statements to insureds. Pursuant to these statutes, for all lines of insurance written on the admitted and surplus lines markets, insurers must provide a loss run statement with a 5-year loss history within 15 days of receiving an insured's written request.<sup>26</sup> In the event of a request for a loss run statement regarding a personal lines policy, an insurer may provide the insured information about how to obtain a loss run statement at no charge through a consumer reporting agency.<sup>27</sup> However, the insured may still ask the insurer for a loss run statement even after receiving information from a consumer reporting agency.<sup>28</sup>

#### *Effect of the Bill*

The bill amends the statutes regarding loss run statements that were enacted in 2020, so that they better reflect existing industry standards. It revises the number of years of loss history that an insurer must provide from a minimum of 5 years to a minimum of 3 years to reflect the fact that many insurers were routinely providing insureds with a 3-year history upon request before the 2020 statutes were

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<sup>18</sup> S. 626.7351, F.S.

<sup>19</sup> Loss run statements are also referred to as loss runs or loss run reports.

<sup>20</sup> Insureon, <https://www.insureon.com/insurance-glossary/loss-runs> (last visited Mar. 4, 2021).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See, e.g., MSIG Loss Runs, <https://www.msigusa.com/loss-runs/> and StarStone, <http://myaccount.starstoneworkcomp.com/index.htm> (last visited Mar. 4, 2021).

<sup>26</sup> See ss. 626.9202 and 627.444, F.S.

<sup>27</sup> S. 627.444(2)(b), F.S.

<sup>28</sup> *Id.*

enacted. The bill requires that if a personal lines insured asks an insurer for a loss run statement after receiving information from a consumer reporting agency, the insurer must provide that statement within 15 days. It establishes that sections 626.9202 and 627.444, F.S., regarding loss run statements, do not apply to life insurers.<sup>29</sup>

The bill also resolves a conflict between the newly enacted statutes and an existing statute regarding loss run statements for group health insurance policies by repealing the health-insurance-specific statute.<sup>30</sup> It establishes that, as applied to group health insurance, a loss run statement also includes premiums paid, number of insured on a monthly basis, and dependent status. The bill clarifies that for group health insurance, only plan sponsors, not individual employees covered by the group policy, may request a loss run statement.

### **Rate Disapprovals Based Upon Hurricane Modeling**

The law governing OIR's review and approval of residential property insurance rate filings requires that a rate filing account for mitigation measures that policyholders undertake to reduce hurricane losses.<sup>31</sup> It sets forth the criteria under which OIR may disapprove rate filings, including disapproval of rates that are determined to be excessive, inadequate, or unfairly discriminatory.<sup>32</sup> The law also establishes criteria for the Florida Commission on Hurricane Loss Projection Methodology's (Commission) consideration and approval of hurricane loss models and prescribes how those models affect OIR's approval of property insurance rate filings.<sup>33</sup>

#### *Effect of the Bill*

The bill provides parameters for OIR's approval or disapproval of rate filings by providing that, with respect to residential property insurance rate filings, the rate filing may use a modeling indication that is the weighted or straight average of two or more models found to be accurate or reliable by the Commission.

### **Mitigation Credits in Residential Property Insurance Rate Filings**

Current law requires residential property insurers to include "positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage" in their rate filing that are filed for approval by OIR.<sup>34</sup> Insurers utilize factors from statewide organizations' building code rating factor plans that evaluate how building code enforcement in particular jurisdictions evaluate risk.<sup>35</sup> Often times these ratings are flawed and not an accurate depiction of actual building code enforcement activity in a jurisdiction.

Since 2003, residential property insurers have been required to provide credits, discounts, and other rate differentials to reduce insurance premiums for properties with mitigation features.<sup>36</sup> Mitigation features are construction techniques used or items installed to protect a structure against windstorm damage and loss.<sup>37</sup>

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<sup>29</sup> Because loss run statements are used to shop for new insurance and life insurance claims are only made after the death of an insured, a loss run statement is not necessary for this type of policy.

<sup>30</sup> See s. 627.6647, F.S.

<sup>31</sup> S. 627.062(2)(j), F.S.

<sup>32</sup> S. 627.062, F.S.

<sup>33</sup> Ss. 627.0628–627.06281, F.S.

<sup>34</sup> S. 627.0629(2)(b), F.S.

<sup>35</sup> See, e.g., ISO Mitigation, *How Do Building Code Effectiveness Classifications Affect Insurance Pricing?*, <https://www.isomitigation.com/bcegs/how-do-building-code-effectiveness-classifications-affect-insurance-pricing/> (last visited Mar. 6, 2021). The Insurance Service Office (ISO) has a program known as Building Code Effectiveness Grading Schedule (BCEGS®), which provides these rating factors.

<sup>36</sup> See s. 627.0629, F.S.

<sup>37</sup> Examples of mitigation features include hurricane shutters, a hip roof, or a specific type of roof covering.

Code-plus programs help property owners avoid or reduce damage caused by natural hazards and other risks by implementing additional levels of resilience to hazard beyond those required by building codes.<sup>38</sup> Presently, insurers are unable to submit rating plans for review and approval by OIR that include mitigation credits for those insureds that are evaluated by, and comply with, code-plus standards established by independent, not-for-profit, scientific research organizations.<sup>39</sup>

#### *Effect of the Bill*

The bill allows insurers the option to include the building code enforcement rating factor within their rating formula rather than requiring them to include it. Therefore, they will no longer be required to use rating factors that may be flawed. The bill also allows insurers to file a rating plan with OIR in which it offers additional windstorm mitigation credits based on standards established by an independent, not-for-profit, scientific research organization (the rating plan) that meets the requirements of the rate filing statute. Additionally, the bill contains a provision that allows insurers to require that insureds who elect to construct or retrofit a structure to receive premium discounts, credits, or rate reductions allowed under the rating plan provide evidence of compliance with mitigation standards prior to receiving the discounts, credits, or rate reductions.

### **Workers' Compensation Insurance Reporting Requirements**

Workers' compensation insurance carriers are required to record and report certain loss, expense, and claims experience to aid OIR in making determinations concerning the adequacy of workers' compensation experience for ratemaking purposes.<sup>40</sup> Additionally, carriers are required to provide the following information annually on both Florida experience and nationwide experience separately:

- Payrolls by classification;
- Manual premiums by classification;
- Standard premiums by classification;
- Losses by classification and injury type; and
- Expenses.

Carriers satisfy these requirements by providing their data to the National Council on Compensation Insurance, Inc. (NCCI). When a carrier goes into receivership due to insolvency, they cease reporting to NCCI and, therefore, their data is no longer reported to OIR.

#### *Effect of the Bill*

The bill provides for a new factor in the determination and fixing of workers' compensation and employer's liability insurance rates. This factor represents the loss experience of insurers whose data is missing due to insolvency. Insurers may use prior reported data for such insurers and all other relevant information to assess the impact on rates.

### **Citizens Property Insurance Corporation**

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity that provides property insurance coverage to those unable to find coverage in the admitted market. Citizens offers property insurance in three separate accounts: the personal lines account; the commercial lines account; and the coastal account. The commercial lines account offers commercial lines residential and nonresidential policies. Currently, residential condominiums are

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<sup>38</sup> Whole Building Design Guide, *Code-Plus Programs For Disaster Resistance*, <https://www.wbdg.org/resources/code-plus-programs-disaster-resistance> (last visited Mar. 6, 2021).

<sup>39</sup> See, e.g., Institute for Business & Home Safety, <https://ibhs.org/> (last visited Mar. 6, 2021).

<sup>40</sup> S. 627.914, F.S.

ineligible for coverage as “commercial residential” if 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days.<sup>41</sup>

#### *Effect of the Bill*

The bill allows Citizens the option to insure residential condominiums under commercial residential wind-only coverage if the units are intended for residential use, but are rented on a short-term basis.

### **Delivery of Policy Documents**

The law requires that an insurance policy be mailed, delivered, or electronically transmitted to an insured within 60 days of taking effect.<sup>42</sup>

#### *Effect of the Bill*

The bill authorizes an insurer to electronically transmit all policy documents and claims communications to an insured, provided the policy is sold in a wholly electronic manner and the insurer provides a disclosure to the insured or policyholder at the time of sale.

### **Limited Coverage Notice Requirements**

Automobile insurance policies (i.e. policies for certain antique cars) that do not contain coverage for bodily injury and property damage are required to include a notice of limited coverage that is rubber stamped on the policy jacket.

#### *Effect of the Bill*

The bill eliminates the rubber stamp requirement for the notice of limited coverage. By removing the rubber stamp requirement, the notice of limited coverage for such policies can be provided to policyholders electronically.

### **Replacement Cost Coverage and Law and Ordinance Coverage**

The law requires insurers to offer homeowner’s insurance policies providing that any loss will be adjusted on the basis of replacement costs to the dwelling.<sup>43</sup> Replacement cost is usually defined in a policy as the cost to repair or replace damaged property with materials of like kind and quality, without any deduction for depreciation.<sup>44</sup> For a dwelling, an insurer must initially pay at least the actual cash value of the insured loss, less any applicable deductible, and then pay any remaining amounts (i.e., replacement costs) only as to repairs and expenses that are actually incurred.<sup>45</sup>

Insurers must also offer replacement cost coverage that includes law and ordinance coverage, which covers the additional costs incurred in repairing a home to bring it into compliance with new laws and ordinances that were not in effect when the home was originally built. The law provides that law and ordinance coverage may be limited to either 25 percent or 50 percent of the dwelling unit.<sup>46</sup> Law and

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<sup>41</sup> S. 627.351(6), F.S.

<sup>42</sup> S. 627.421(1), F.S.

<sup>43</sup> S. 627.7011, F.S.

<sup>44</sup> National Association of Insurance Commissioners, *Glossary of Insurance Terms*, [https://content.naic.org/consumer\\_glossary.htm](https://content.naic.org/consumer_glossary.htm) (last visited Mar. 3, 2021).

<sup>45</sup> S. 627.7011(3)(a), F.S.

<sup>46</sup> S. 627.7011(1), F.S.

ordinance coverage assists in paying for increased construction costs as a result of newer building code enforcement or ordinances when repairing or replacing a dwelling after a covered loss.

### *Effect of the Bill*

The bill clarifies that for purposes of law and ordinance coverage, the applicable laws and ordinances are those which were enacted on or before the time of a covered loss.

## **Surplus Lines**

Surplus lines insurance refers to a category of insurance for risks that the admitted market is unable or unwilling to provide coverage.<sup>47</sup> There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code, which means they do not obtain a certificate of authority from OIR to transact insurance in Florida.<sup>48</sup> Rather, surplus lines insurers are “unauthorized” insurers that may transact surplus lines insurance, if they are made eligible by OIR.<sup>49</sup>

The Florida Surplus Lines Service Office (FSLSO) is a self-regulating, nonprofit association of approved unauthorized insurers established by the Legislature in 1997.<sup>50</sup> The FSLSO was created to protect consumers seeking surplus line insurance in the state, monitor marketplace compliance, and protect state revenues.<sup>51</sup> All licensed surplus lines agents are deemed to be members of the FSLSO.<sup>52</sup> The FSLSO operates under the supervision of a nine-member board of governors, which has oversight responsibilities for the Florida surplus lines market.

“To export” a policy<sup>53</sup> means to place it with an unauthorized insurer under the Surplus Lines Law.<sup>54</sup> Unless an exception applies, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers before the agent can place insurance in the surplus lines market.<sup>55</sup> “Diligent effort” means, subject to certain exceptions, seeking coverage from and being rejected by at least three authorized insurers in the admitted market.<sup>56</sup>

### *Effect of the Bill*

The bill allows surplus lines agents to export flood coverage to eligible surplus lines insurers without meeting the diligent effort requirement.

## **Assignment Agreements**

An assignment is the voluntary transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the

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<sup>47</sup> S. 626.921, F.S.

<sup>48</sup> S. 624.09, F.S.

<sup>49</sup> *Id.*

<sup>50</sup> S. 626.921, F.S.

<sup>51</sup> *Id.*

<sup>52</sup> S. 626.921(2), F.S.

<sup>53</sup> S. 626.914(3), F.S.

<sup>54</sup> Sections 626.913 – 626.937, F.S., constitute the “Surplus Lines Law.”

<sup>55</sup> S. 626.916(1)(a), F.S.

<sup>56</sup> If the cost to replace a residential dwelling is \$700,000 or more, then only one coverage rejection is needed prior to export. S. 626.914(4), F.S.



right to be paid, to another party. This assignment is often called an “assignment of benefits” or “AOB”. An “assignment agreement” is an instrument that assigns or transfers post-loss benefits under a residential or commercial property insurance policy to or from a person who protects, repairs, restores, or replaces property or mitigates against further property damage.<sup>57</sup>

Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer. An assignee must give an insurer and the assignor prior written notice of at least 10 business days before filing suit on a claim.<sup>58</sup> The notice may not be served before the insurer has made a determination of coverage.<sup>59</sup> The notice must specify the damages in dispute, the amount claimed, and a pre-suit settlement demand, and must include an itemized, detailed written invoice or estimate of the work performed or to be performed.<sup>60</sup>

The law requires that pre-suit notice be sent by certified mail, return receipt requested, or by electronic delivery, but does not specify the mailing address or e-mail address where it must be sent. This may delay receipt of notice and thus reduce an insurer’s actual time to respond.

### *Effect of the Bill*

The bill expands the scope of services covered under the definition of “assignment agreement.” The bill adds inspection services to the scope of services covered by an “assignment agreement” and specifies that the list of services enumerated in the statute is not exhaustive. The bill provides that fees charged by a public adjuster are not included in the definition of “assignment agreement.” Additionally, the bill requires that notice of intent to initiate litigation, sent by certified mail, be sent to the name and mailing address specified by the insurer in the policy forms and that notice sent electronically be sent to the e-mail address designated by the insurer in the policy forms.

## **Agent Licensing**

### *General Lines Agent*

A general lines agent<sup>61</sup> is one who sells the following lines of insurance: property;<sup>62</sup> casualty,<sup>63</sup> including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,<sup>64</sup> or a workers’ compensation self-insurance fund;<sup>65</sup> surety;<sup>66</sup> health;<sup>67</sup> and, marine.<sup>68</sup> The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance. If the general lines agent wishes to represent health insurers that are not also property and casualty insurers, they must be licensed as a health insurance agent.<sup>69</sup>

### *Personal Lines Agent*

A personal lines agent is a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.<sup>70</sup>

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<sup>57</sup> S. 627.7152(1)(b), F.S.

<sup>58</sup> S. 627.7152(9)(a), F.S.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> S. 626.015(5), F.S.

<sup>62</sup> S. 624.604, F.S.

<sup>63</sup> S. 624.605, F.S.

<sup>64</sup> S. 624.462, F.S.

<sup>65</sup> S. 624.4621, F.S.

<sup>66</sup> S. 626.606, F.S.

<sup>67</sup> Ss. 624.603 and 627.6482, F.S.

<sup>68</sup> S. 624.607, F.S.

<sup>69</sup> S. 626.829, F.S.

<sup>70</sup> S. 626.015(17), F.S.

## *Motor Vehicle Servicing Agreements*

Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. A motor vehicle service agreement indemnifies the vehicle owner (or holder of the agreement) against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended. Motor vehicle service agreements can only be sold by a licensed and appointed salesperson. Salespersons are licensed in the same manner as insurance representatives under ch. 626, F.S., with some exceptions to the requirements applied to insurance representatives.

## *Service Warranty Associations*

Service warranty associations are entities, other than insurers, which issue service warranties. A service warranty is an agreement or maintenance service contract equal to or greater than 1 year in length to repair, replace, or maintain a consumer product, or for indemnification for repair, replacement, or maintenance, for operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling in return for the payment of a segregated charge by the consumer.<sup>71</sup> No person or entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative.<sup>72</sup>

## *Home Warranty Contracts*

A home warranty association is any corporation or any other organization, other than an authorized insurer, issuing home warranties. A home warranty is any contract or agreement whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss. No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative.<sup>73</sup>

## *Effect of the Bill*

The bill allows a licensed general lines agent or licensed personal lines agent to advertise, solicit, negotiate, or sell motor vehicle service agreements, home warranty contracts, or service warranty contracts without being separately licensed as a sales representative or insurance representative, as applicable.

### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 215.555, F.S., relating to Florida Hurricane Catastrophe Fund.

**Section 2.** Amends s. 624.423, F.S., relating to serving process.

**Section 3.** Creates s. 624.46227, F.S., relating to meeting requirements.

**Section 4.** Amends s. 626.7351, F.S., relating to qualifications for customer representative's license.

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<sup>71</sup> S. 634.401(13), F.S.

<sup>72</sup> S. 634.419, F.S. A "sales representative" is any person, retail store, corporation, partnership, or sole proprietorship utilized by an insurer or service warranty association for the purpose of selling or issuing service warranties. However, in the case of service warranty associations selling service warranties from one or more business locations, the person in charge of each location may be considered the sales representative. S. 634.401(12), F.S.

<sup>73</sup> S. 634.317, F.S. "Sales representative" is any person with whom an insurer or home inspection or warranty association has a contract and who is utilized by such insurer or association for the purpose of selling or issuing home warranties. The term includes all employees of an insurer or association engaged directly in the sale or issuance of home warranties.

S. 634.301(12), F.S.

- Section 5.** Amends s. 626.856, F.S., relating to “company employee adjuster” defined.
- Section 6.** Amends s. 626.9202, F.S., relating to loss run statements for all lines of insurance.
- Section 7.** Amends s. 627.062, F.S., relating to rate standards.
- Section 8.** Amends s. 627.0629, F.S., relating to residential property insurance; rate filings.
- Section 9.** Amends s. 627.072, F.S., relating to making and use of rates.
- Section 10.** Amends s. 627.351, F.S., relating to insurance risk apportionment plans.
- Section 11.** Amends s. 627.421, F.S., relating to delivery of policy.
- Section 12.** Amends s. 627.444, F.S., relating to loss run statements for all lines of insurance.
- Section 13.** Repeals s. 627.6647, F.S., relating to release of claims experience.
- Section 14.** Amends s. 627.7011, F.S., relating to homeowners’ policies; offer of replacement cost coverage and law and ordinance coverage.
- Section 15.** Amends s. 627.715, F.S., relating to flood insurance.
- Section 16.** Amends s. 627.7152, F.S., relating to assignment agreements.
- Section 17.** Amends s. 627.7276, F.S., relating to notice of limited coverage.
- Section 18.** Amends s. 634.171, F.S., relating to salesperson to be licensed and appointed.
- Section 19.** Amends s. 634.317, F.S., relating to license and appointment required.
- Section 20.** Amends s. 634.419, F.S., relating to license and appointment required.
- Section 21.** Reenacts s. 627.7153, F.S., relating to policies restricting assignment of post-loss benefits under a property insurance policy.
- Section 22.** Provides an effective date of July 1, 2021, except as otherwise provided.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

OIR has indicated the bill may have positive economic impacts for policyholders, who may benefit from lower collateral protection insurance costs if more policies are eligible for coverage from the FHCF.<sup>74</sup>

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2021, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment made the following changes to the bill:

- Added a new section to the bill authorizing an association, trust, or pool created for the purpose of forming or managing a risk management mechanism or providing self-insurance for a public entity to establish a quorum and conduct public business through communication media technology.
- Added a new section to the bill adding the designation of Insurance Customer Service Representative from Statewide Insurance Associates LLC to the list of several designations, one of which meets a required qualification for an applicant for licensure as a customer representative if earned within 4 years preceding the date of filing an application for licensure.
- Restored language in two statutes relating to loss run statements by replacing “each claim” with “all claims” in order to ensure that protected medical information is not inadvertently disclosed on a loss run statement.
- Moved a new provision in the bill that a residential property insurance filing may use a weighted or straight average of two or more models found by the Florida Commission on Hurricane Loss Projection Methodology to be accurate or reliable to a more appropriate location in the same section.
- Made a modification to a provision in the bill allowing an insurer to file a rating plan with rate differentials based on windstorm mitigation construction standards to add that the standards must meet the requirements of the rate filing statute.
- Added a new section to the bill authorizing an insurer to electronically transmit policy documents and claims communications to an insured, provided the policy is sold in a wholly electronic manner and the insurer provides a disclosure to the insured or policyholder at the time of sale.
- Deleted language in the bill requiring that an insured request reimbursement from an insurer for the difference between actual cash value and replacement costs by the latter of no less than 2 years from the date of the loss or 1 year from the notice of the claim.

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<sup>74</sup> OIR Agency Analysis of 2021 House Bill 815, p. 6 (Feb. 23, 2021).

- Provided that fees charged by a public adjuster are not included in the definition of “assignment agreement.”
- Revised the notice requirements for certain motor vehicle policies that do not provide coverage for bodily injury and property damage liability and deletes a requirement that such policies be rubber stamped. By removing the rubber stamp requirement, the notice of limited coverage for such policies can be provided to policyholders electronically.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.