



26 | deceptive acts or practices; prohibiting directors or  
27 | officers of insolvent or impaired insurers from  
28 | authorizing or permitting the payment of certain  
29 | bonuses; defining the term "bonus"; amending s.  
30 | 627.0613, F.S.; requiring the insurance consumer  
31 | advocate, in conjunction with the Department of  
32 | Financial Services and the office, to annually prepare  
33 | and make publicly available a report relating to  
34 | insurer rate increases; amending s. 627.351, F.S.;  
35 | deleting a requirement that a Citizens Property  
36 | Insurance Corporation policyholder making a claim for  
37 | water damage has the burden of proving that the damage  
38 | was not caused by flooding; amending s. 627.35191,  
39 | F.S.; requiring the corporation to provide to the  
40 | Legislature and the Financial Services Commission an  
41 | annual supplemental report relating to closed claims;  
42 | specifying requirements for the report; amending s.  
43 | 627.4133, F.S.; prohibiting insurers providing  
44 | homeowner's insurance from canceling, nonrenewing, or  
45 | terminating a policy during a pending claim except  
46 | under certain circumstances; amending s. 627.420,  
47 | F.S.; prohibiting certain actions by an insurer  
48 | issuing a homeowner's insurance binder before closing  
49 | to a purchaser of residential property; requiring such  
50 | insurer to perform any required inspections before

51 binding coverage; requiring a seller of a new home  
52 purchase to allow access to the property for such  
53 inspection before closing; amending s. 627.701, F.S.;  
54 providing that if a roof deductible is applied under a  
55 personal lines residential property insurance policy,  
56 no other deductible may be applied to certain other  
57 losses; amending s. 627.7011, F.S.; providing that if  
58 a homeowner's insurance policy provides an option with  
59 limited coverage, the insurer must offer a premium  
60 with a certain discount or credit; creating s.  
61 627.70111, F.S.; requiring a specified notice period  
62 to a homeowner before any inspection of the  
63 homeowner's residential property for insurance  
64 purposes, except under certain circumstances; amending  
65 s. 627.70131, F.S.; providing that repeated violations  
66 of certain prompt payment requirements are an unfair  
67 method of competition and an unfair or deceptive act  
68 or practice; deleting a provision providing that  
69 failure to comply with certain provisions does not  
70 form the sole basis for a private cause of action;  
71 amending s. 627.70132, F.S.; providing that certain  
72 timeframes to provide notice of a property insurance  
73 claim are tolled during the period of active duty for  
74 an insured in active military service; amending s.  
75 627.70152, F.S.; requiring a property insurer to

76 provide a certain response to a presuit notice to the  
 77 department; deleting the authority for an insurer to  
 78 require the claimant to participate in appraisal;  
 79 providing that a policy must require a claimant's  
 80 consent; specifying a limitation and restriction on  
 81 invoking appraisal; providing that a certain notice  
 82 and response are admissible as evidence in certain  
 83 proceedings; requiring that any alternative dispute  
 84 resolution process be authorized by statute; creating  
 85 s. 627.70155, F.S.; providing restrictions on property  
 86 insurance policies relating to venue and controlling  
 87 law provisions; amending s. 627.702, F.S.; providing  
 88 that certain total losses under the valued policy law  
 89 may not be subject to any requirement for the insured  
 90 to participate in appraisal; amending s. 768.79, F.S.;  
 91 revising conditions for making, and parties who may  
 92 make, certain joint offers of judgment or settlement;  
 93 providing an effective date.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. Subsection (8) of section 624.155, Florida  
 98 Statutes, is amended to read:

99 624.155 Civil remedy.—

100 (8) The civil remedy specified in this section does not

HB 1431

2023

101 preempt any other remedy or cause of action provided for  
102 pursuant to any other statute or pursuant to the common law of  
103 this state. Any person may obtain a judgment under either the  
104 common-law remedy of bad faith or this statutory remedy, but  
105 shall not be entitled to a judgment under both remedies. This  
106 section shall not be construed to create a common-law cause of  
107 action. The damages recoverable pursuant to this section shall  
108 include those damages which are a reasonably foreseeable result  
109 of a specified violation of this section by the authorized  
110 insurer and may include an award or judgment in an amount that  
111 exceeds the policy limits. This section does not limit or  
112 prohibit the recovery of any damages under the common-law remedy  
113 of bad faith, and extracontractual, consequential damages may be  
114 recovered under such remedy.

115 Section 2. Subsection (7) of section 624.3161, Florida  
116 Statutes, is amended to read:

117 624.3161 Market conduct examinations.—

118 (7) Notwithstanding subsection (1), any authorized insurer  
119 transacting property insurance business in this state shall ~~may~~  
120 be subject to an additional market conduct examination after a  
121 hurricane if the insurer:

122 (a) Is among the top 20 percent of insurers based upon a  
123 calculation of the ratio of hurricane-related property insurance  
124 claims filed to the number of property insurance policies in  
125 force;

126 (b) Is among the top 20 percent of insurers based upon a  
 127 calculation of the ratio of consumer complaints made to the  
 128 department to hurricane-related claims;

129 (c) Has made significant payments to its managing general  
 130 agent since the hurricane; or

131 (d) Is identified by the office as necessitating a market  
 132 conduct exam for any other reason.

133

134 All relevant criteria under this section and s. 624.316 shall be  
 135 applied to the market conduct examination under this subsection.  
 136 Such an examination must be initiated within 18 months after the  
 137 landfall of a hurricane that results in an executive order or a  
 138 state of emergency issued by the Governor. An examination of an  
 139 insurer under this subsection must also include an examination  
 140 of its managing general agent as if it were the insurer.

141 Section 3. Section 624.4055, Florida Statutes, is amended  
 142 to read:

143 624.4055 Restrictions on existing private passenger  
 144 automobile insurance.—An ~~No~~ insurer writing private passenger  
 145 automobile insurance in this state may not continue to write  
 146 such insurance if the insurer:

147 (1) Writes homeowners' insurance in another state but not  
 148 in this state; or

149 (2) Writes homeowners' insurance in this state, but the  
 150 number of homeowners' insurance policies that it writes or

151 renews in this state in any calendar year is less than 5 percent  
 152 of the total number of policies written or renewed by the  
 153 insurer for all kinds of insurance transacted by the insurer in  
 154 this state, ~~unless the insurer writing private passenger~~  
 155 ~~automobile insurance in this state is affiliated with an insurer~~  
 156 ~~writing homeowners' insurance in this state.~~

157 Section 4. Subsection (1) of section 624.407, Florida  
 158 Statutes, is amended to read:

159 624.407 Surplus required; new insurers.—

160 (1) To receive authority to transact any one kind or  
 161 combinations of kinds of insurance, as defined in part V of this  
 162 chapter, an insurer applying for its original certificate of  
 163 authority in this state shall possess surplus as to  
 164 policyholders at least the greater of:

165 (a) For a property and casualty insurer, \$5 million, or  
 166 \$2.5 million for any other insurer;

167 (b) For life insurers, 4 percent of the insurer's total  
 168 liabilities;

169 (c) For life and health insurers, 4 percent of the  
 170 insurer's total liabilities, plus 6 percent of the insurer's  
 171 liabilities relative to health insurance;

172 (d) For all insurers other than life insurers and life and  
 173 health insurers, 10 percent of the insurer's total liabilities;

174 (e) Notwithstanding paragraph (a) or paragraph (d), for a  
 175 domestic insurer that transacts residential property insurance

176 and is:

177 1. Not a wholly owned subsidiary of an insurer domiciled  
 178 in any other state, \$30 ~~\$15~~ million.

179 2. A wholly owned subsidiary of an insurer domiciled in  
 180 any other state, \$50 million;

181 (f) Notwithstanding paragraphs (a), (d), and (e), for a  
 182 domestic insurer that only transacts limited sinkhole coverage  
 183 insurance for personal lines residential property pursuant to s.  
 184 627.7151, \$7.5 million; or

185 (g) Notwithstanding paragraphs (a), (d), and (e), for an  
 186 insurer that only transacts residential property insurance in  
 187 the form of renter's insurance, tenant's coverage, cooperative  
 188 unit owner insurance, or any combination thereof, \$10 million.

189 Section 5. Paragraphs (f) and (g) of subsection (1) of  
 190 section 624.408, Florida Statutes, are amended to read:

191 624.408 Surplus required; current insurers.—

192 (1) To maintain a certificate of authority to transact any  
 193 one kind or combinations of kinds of insurance, as defined in  
 194 part V of this chapter, an insurer in this state must at all  
 195 times maintain surplus as to policyholders at least the greater  
 196 of:

197 (f) For residential property insurers not holding a  
 198 certificate of authority before July 1, 2011, \$30 ~~\$15~~ million.

199 (g) For residential property insurers holding a  
 200 certificate of authority before July 1, 2011, and until June 30,

201 2016, \$5 million; on or after July 1, 2016, and until June 30,  
 202 2021, \$10 million; on or after July 1, 2021, and until June 30,  
 203 2023, \$15 million; on or after July 1, 2023, \$30 million.

204  
 205 The office may reduce the surplus requirement in paragraphs (f)  
 206 and (g) if the insurer is not writing new business, has premiums  
 207 in force of less than \$1 million per year in residential  
 208 property insurance, or is a mutual insurance company.

209 Section 6. Paragraph (a) of subsection (10) and subsection  
 210 (11) of section 624.424, Florida Statutes, are amended to read:  
 211 624.424 Annual statement and other information.—

212 (10) (a) Each insurer or insurer group doing business in  
 213 this state shall file on a quarterly basis in conjunction with  
 214 financial reports required by paragraph (1) (a) a supplemental  
 215 report on an individual and group basis on a form prescribed by  
 216 the commission with information on personal lines and commercial  
 217 lines residential property insurance policies in this state. The  
 218 supplemental report shall include separate information for  
 219 personal lines property policies and for commercial lines  
 220 property policies and totals for each item specified, including  
 221 premiums written for each of the property lines of business as  
 222 described in ss. 215.555(2) (c) and 627.351(6) (a). The report  
 223 shall include the following information for each county on a  
 224 monthly basis:

225 1. Total number of policies in force at the end of each

226 month.

227 2. Total number of policies canceled.

228 3. Total number of policies nonrenewed.

229 4. Number of policies canceled due to hurricane risk.

230 5. Number of policies nonrenewed due to hurricane risk.

231 6. Number of new policies written.

232 7. Total dollar value of structure exposure under policies

233 that include wind coverage.

234 8. Number of policies that exclude wind coverage.

235 9. Number of claims open each month.

236 10. Number of claims closed each month.

237 11. Number of claims pending each month.

238 12. Number of claims in which either the insurer or

239 insured invoked any form of alternative dispute resolution, the

240 party that invoked the alternative dispute resolution, the

241 prealternative dispute resolution payment, if any, by the

242 insurer, the postalternative dispute resolution payment by the

243 insurer, and the ~~specifying which~~ form of alternative dispute

244 resolution ~~was~~ used.

245 (11) Beginning January 1, 2022, each authorized insurer or

246 insurer group issuing personal lines or commercial lines

247 residential property insurance policies in this state shall file

248 with the office on an annual basis in conjunction with the

249 statements required by paragraph (1)(a) a supplemental report on

250 an individual and group basis for closed claims. The office

251 shall compile the data for each insurer or insurer group on a  
252 statewide basis and make such data publicly available on its  
253 website monthly. Such data, when aggregated on a statewide basis  
254 as to an individual insurer or insurer group, is not a trade  
255 secret as defined in s. 688.002 or s. 812.081(1) and is not  
256 subject to the public records exemption for trade secrets  
257 provided in s. 119.0715. By January 1, 2024, the office shall  
258 also make publicly available the data required to be reported by  
259 each insurer or insurer group for the 2021 calendar year, the  
260 2022 calendar year, and the 2023 calendar year through July 1,  
261 2023, and collected by the office during the 2022 and subsequent  
262 calendar years. The report must be on a form prescribed by the  
263 commission and must include the following information for each  
264 claim closed, excluding liability only claims, within the  
265 reporting period in this state:

- 266 (a) The unique claim identification number.  
267 (b) The type of policy.  
268 (c) The zip code of the property where the claim occurred.  
269 (d) The county where the claim occurred.  
270 (e) The date of loss.  
271 (f) The peril or type of loss, including information  
272 about:
- 273 1. The types of vendors used for mitigation, repair, or  
274 replacement; and
  - 275 2. The names of vendors used, if known.

- 276 (g) The date the claim was reported to insurer.
- 277 (h) The initial date the claim was closed, including
- 278 information about whether the claim was closed with or without
- 279 payment.
- 280 (i) The date the claim was most recently reopened, if
- 281 applicable.
- 282 (j) The date a supplemental claim was filed, if
- 283 applicable.
- 284 (k) The date the claim was most recently closed, if
- 285 different from the initial date the claim was closed.
- 286 (l) The name of the public adjuster on the claim, if any.
- 287 (m) The Florida Bar number and name of the attorney for
- 288 the claimant, if any.
- 289 (n) The total indemnity paid by the insurer.
- 290 (o) The total loss adjustment expenses paid by the
- 291 insurer.
- 292 (p) The amount paid for any claimant's and insurer's
- 293 attorney fees, listed separately, specifying the amount incurred
- 294 during prelitigation or appraisal and the amount incurred during
- 295 arbitration or litigation, as applicable ~~if any~~.
- 296 (q) The amount paid in costs for claimant's and insurer's
- 297 attorney ~~attorney's~~ expenses, listed separately, including, but
- 298 not limited to, expert witness fees.
- 299 (r) The contingency risk multiplier, if any, that the
- 300 claimant's attorney requested to be applied in calculating the

301 attorney fees awarded to the claimant's attorney.

302 (s) The contingency risk multiplier, if any, that a court  
 303 applied in calculating the attorney fees awarded to the  
 304 claimant's attorney.

305 (t) Data submitted by each claimant and each insurer or  
 306 insurer group pursuant to s. 627.70152(3) and (4) to the  
 307 department.

308 (u) Any other information deemed necessary by the  
 309 commission to provide the office with the ability to track  
 310 litigation and claims trends occurring in the property market.

311 Section 7. Subsection (4) is added to section 626.9201,  
 312 Florida Statutes, to read:

313 626.9201 Notice of cancellation or nonrenewal.—

314 (4) Notwithstanding this section or any other law to the  
 315 contrary, an insurer providing homeowner's insurance or  
 316 commercial property insurance may not cancel, nonrenew, or  
 317 terminate a policy during a pending claim, except for nonpayment  
 318 of premium.

319 Section 8. Paragraphs (i), (o), and (w) of subsection (1)  
 320 of section 626.9541, Florida Statutes, are amended to read:

321 626.9541 Unfair methods of competition and unfair or  
 322 deceptive acts or practices defined.—

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

326 (i) Unfair claim settlement practices.—

327 1. Attempting to settle claims on the basis of an  
328 application, when serving as a binder or intended to become a  
329 part of the policy, or any other material document which was  
330 altered without notice to, or knowledge or consent of, the  
331 insured;

332 2. A material misrepresentation made to an insured or any  
333 other person having an interest in the proceeds payable under  
334 such contract or policy, for the purpose and with the intent of  
335 effecting settlement of such claims, loss, or damage under such  
336 contract or policy on less favorable terms than those provided  
337 in, and contemplated by, such contract or policy;

338 3. Committing or performing with such frequency as to  
339 indicate a general business practice any of the following:

340 a. Failing to adopt and implement standards for the proper  
341 investigation of claims;

342 b. Misrepresenting pertinent facts or insurance policy  
343 provisions relating to coverages at issue;

344 c. Failing to acknowledge and act promptly upon  
345 communications with respect to claims;

346 d. Denying claims without conducting reasonable  
347 investigations based upon available information;

348 e. Failing to affirm or deny full or partial coverage of  
349 claims, and, as to partial coverage, the dollar amount or extent  
350 of coverage, or failing to provide a written statement that the

351 claim is being investigated, upon the written request of the  
 352 insured within 30 days after proof-of-loss statements have been  
 353 completed;

354 f. Failing to promptly provide a reasonable explanation in  
 355 writing to the insured of the basis in the insurance policy, in  
 356 relation to the facts or applicable law, for denial of a claim  
 357 or for the offer of a compromise settlement;

358 g. Failing to promptly notify the insured of any  
 359 additional information necessary for the processing of a claim;

360 h. Failing to clearly explain the nature of the requested  
 361 information and the reasons why such information is necessary;  
 362 ~~or~~

363 i. Failing to pay personal injury protection insurance  
 364 claims within the time periods required by s. 627.736(4) (b). The  
 365 office may order the insurer to pay restitution to a  
 366 policyholder, medical provider, or other claimant, including  
 367 interest at a rate consistent with the amount set forth in s.  
 368 55.03(1), for the time period within which an insurer fails to  
 369 pay claims as required by law. Restitution is in addition to any  
 370 other penalties allowed by law, including, but not limited to,  
 371 the suspension of the insurer's certificate of authority; ~~or~~

372 j. Compelling insureds to institute litigation to recover  
 373 amounts due under an insurance policy by offering substantially  
 374 less than the amounts ultimately recovered in actions brought by  
 375 such insureds;

376 k. Altering a field adjuster's initial estimate, report,  
 377 photographs, or written comments regarding photographs or  
 378 observations of an insured risk without the express written  
 379 approval of the adjuster obtained within 5 days after the  
 380 alteration which clearly explains in detail the nature and  
 381 extent of the changes;

382 1. Failing to provide an insured with a complete,  
 383 unredacted, and unaltered copy of a field adjuster's initial  
 384 report, estimate, and photographs within 10 business days after  
 385 receipt of such materials; or

386 m. Failing to provide an insured with a complete,  
 387 unredacted, and unaltered copy of any report or estimate  
 388 obtained from an engineer, an environmental consultant, a  
 389 contractor, or another specialist retained by the insurer to  
 390 investigate the claim within 10 business days after receipt of  
 391 such report or estimate; or

392 4. Failing to pay undisputed amounts of partial or full  
 393 benefits owed under first-party property insurance policies  
 394 within 60 days after an insurer receives notice of a residential  
 395 property insurance claim, determines the amounts of partial or  
 396 full benefits, and agrees to coverage, unless payment of the  
 397 undisputed benefits is prevented by factors beyond the control  
 398 of the insurer as defined in s. 627.70131(5);~~;~~

399 5. Repeatedly failing to comply with s. 627.70131(7) (a);  
 400 or

401       6. Assigning three or more adjusters within a 6-month  
 402 period on a claim arising from a natural disaster, including a  
 403 tropical storm or hurricane, which is the subject of a state of  
 404 emergency declared by executive order or proclamation of the  
 405 Governor pursuant to s. 252.36.

406       (o) Illegal dealings in premiums; excess or reduced  
 407 charges for insurance.—

408       1. Knowingly collecting any sum as a premium or charge for  
 409 insurance, which is not then provided, or is not in due course  
 410 to be provided, subject to acceptance of the risk by the  
 411 insurer, by an insurance policy issued by an insurer as  
 412 permitted by this code.

413       2. Knowingly collecting as a premium or charge for  
 414 insurance any sum in excess of or less than the premium or  
 415 charge applicable to such insurance, in accordance with the  
 416 applicable classifications and rates as filed with and approved  
 417 by the office, and as specified in the policy; or, in cases when  
 418 classifications, premiums, or rates are not required by this  
 419 code to be so filed and approved, premiums and charges collected  
 420 from a Florida resident in excess of or less than those  
 421 specified in the policy and as fixed by the insurer.

422 Notwithstanding any other provision of law, this provision shall  
 423 not be deemed to prohibit the charging and collection, by  
 424 surplus lines agents licensed under part VIII of this chapter,  
 425 of the amount of applicable state and federal taxes, or fees as

426 authorized by s. 626.916(4), in addition to the premium required  
427 by the insurer or the charging and collection, by licensed  
428 agents, of the exact amount of any discount or other such fee  
429 charged by a credit card facility in connection with the use of  
430 a credit card, as authorized by subparagraph (q)3., in addition  
431 to the premium required by the insurer. This subparagraph shall  
432 not be construed to prohibit collection of a premium for a  
433 universal life or a variable or indeterminate value insurance  
434 policy made in accordance with the terms of the contract.

435 3. Imposing or requesting an additional premium for a  
436 policy of homeowner's insurance because the insured filed a  
437 claim, unless the insurer's file contains information from which  
438 the insurer in good faith determines that the insured acted  
439 negligently or intentionally caused damages that led to the  
440 claim.

441 4.a.3.a. Imposing or requesting an additional premium for  
442 a policy of motor vehicle liability, personal injury protection,  
443 medical payment, or collision insurance or any combination  
444 thereof or refusing to renew the policy solely because the  
445 insured was involved in a motor vehicle accident unless the  
446 insurer's file contains information from which the insurer in  
447 good faith determines that the insured was substantially at  
448 fault in the accident.

449 b. An insurer which imposes and collects such a surcharge  
450 or which refuses to renew such policy shall, in conjunction with

HB 1431

2023

451 the notice of premium due or notice of nonrenewal, notify the  
452 named insured that he or she is entitled to reimbursement of  
453 such amount or renewal of the policy under the conditions listed  
454 below and will subsequently reimburse him or her or renew the  
455 policy, if the named insured demonstrates that the operator  
456 involved in the accident was:

457 (I) Lawfully parked;

458 (II) Reimbursed by, or on behalf of, a person responsible  
459 for the accident or has a judgment against such person;

460 (III) Struck in the rear by another vehicle headed in the  
461 same direction and was not convicted of a moving traffic  
462 violation in connection with the accident;

463 (IV) Hit by a "hit-and-run" driver, if the accident was  
464 reported to the proper authorities within 24 hours after  
465 discovering the accident;

466 (V) Not convicted of a moving traffic violation in  
467 connection with the accident, but the operator of the other  
468 automobile involved in such accident was convicted of a moving  
469 traffic violation;

470 (VI) Finally adjudicated not to be liable by a court of  
471 competent jurisdiction;

472 (VII) In receipt of a traffic citation which was dismissed  
473 or nolle prossed; or

474 (VIII) Not at fault as evidenced by a written statement  
475 from the insured establishing facts demonstrating lack of fault

HB 1431

2023

476 | which are not rebutted by information in the insurer's file from  
477 | which the insurer in good faith determines that the insured was  
478 | substantially at fault.

479 |       c. In addition to the other provisions of this  
480 | subparagraph, an insurer may not fail to renew a policy if the  
481 | insured has had only one accident in which he or she was at  
482 | fault within the current 3-year period. However, an insurer may  
483 | nonrenew a policy for reasons other than accidents in accordance  
484 | with s. 627.728. This subparagraph does not prohibit nonrenewal  
485 | of a policy under which the insured has had three or more  
486 | accidents, regardless of fault, during the most recent 3-year  
487 | period.

488 |       ~~5.4.~~ Imposing or requesting an additional premium for, or  
489 | refusing to renew, a policy for motor vehicle insurance solely  
490 | because the insured committed a noncriminal traffic infraction  
491 | as described in s. 318.14 unless the infraction is:

492 |       a. A second infraction committed within an 18-month  
493 | period, or a third or subsequent infraction committed within a  
494 | 36-month period.

495 |       b. A violation of s. 316.183, when such violation is a  
496 | result of exceeding the lawful speed limit by more than 15 miles  
497 | per hour.

498 |       ~~6.5.~~ Upon the request of the insured, the insurer and  
499 | licensed agent shall supply to the insured the complete proof of  
500 | fault or other criteria which justifies the additional charge or

501 cancellation.

502 ~~7.6.~~ No insurer shall impose or request an additional  
503 premium for motor vehicle insurance, cancel or refuse to issue a  
504 policy, or refuse to renew a policy because the insured or the  
505 applicant is a handicapped or physically disabled person, so  
506 long as such handicap or physical disability does not  
507 substantially impair such person's mechanically assisted driving  
508 ability.

509 ~~8.7.~~ No insurer may cancel or otherwise terminate any  
510 insurance contract or coverage, or require execution of a  
511 consent to rate endorsement, during the stated policy term for  
512 the purpose of offering to issue, or issuing, a similar or  
513 identical contract or coverage to the same insured with the same  
514 exposure at a higher premium rate or continuing an existing  
515 contract or coverage with the same exposure at an increased  
516 premium.

517 ~~9.8.~~ No insurer may issue a nonrenewal notice on any  
518 insurance contract or coverage, or require execution of a  
519 consent to rate endorsement, for the purpose of offering to  
520 issue, or issuing, a similar or identical contract or coverage  
521 to the same insured at a higher premium rate or continuing an  
522 existing contract or coverage at an increased premium without  
523 meeting any applicable notice requirements.

524 ~~10.9.~~ No insurer shall, with respect to premiums charged  
525 for motor vehicle insurance, unfairly discriminate solely on the

HB 1431

2023

526 basis of age, sex, marital status, or scholastic achievement.

527 ~~11.10.~~ Imposing or requesting an additional premium for  
528 motor vehicle comprehensive or uninsured motorist coverage  
529 solely because the insured was involved in a motor vehicle  
530 accident or was convicted of a moving traffic violation.

531 ~~12.11.~~ No insurer shall cancel or issue a nonrenewal  
532 notice on any insurance policy or contract without complying  
533 with any applicable cancellation or nonrenewal provision  
534 required under the Florida Insurance Code.

535 ~~13.12.~~ No insurer shall impose or request an additional  
536 premium, cancel a policy, or issue a nonrenewal notice on any  
537 insurance policy or contract because of any traffic infraction  
538 when adjudication has been withheld and no points have been  
539 assessed pursuant to s. 318.14(9) and (10). However, this  
540 subparagraph does not apply to traffic infractions involving  
541 accidents in which the insurer has incurred a loss due to the  
542 fault of the insured.

543 (w) Soliciting or accepting new or renewal insurance risks  
544 or payment of certain bonuses by insolvent or impaired insurer  
545 prohibited; penalty.—

546 1. Whether or not delinquency proceedings as to the  
547 insurer have been or are to be initiated, but while such  
548 insolvency or impairment exists, no director or officer of an  
549 insurer, except with the written permission of the office, shall  
550 authorize or permit the insurer to solicit or accept new or

551 renewal insurance risks in this state after such director or  
 552 officer knew, or reasonably should have known, that the insurer  
 553 was insolvent or impaired.

554 2. Regardless of whether delinquency proceedings as to the  
 555 insurer have been or are to be initiated, but while such  
 556 insolvency or impairment exists, a director or an officer of an  
 557 impaired insurer may not authorize or permit the insurer to pay  
 558 a bonus to any officer or director of the insurer.

559 3. As used in this paragraph, the term:

560 a. "Bonus" means a payment, in addition to an officer's or  
 561 a director's usual compensation, which is in addition to any  
 562 amounts contracted for or otherwise legally due.

563 b. "Impaired" includes impairment of capital or surplus,  
 564 as defined in s. 631.011(12) and (13).

565 ~~4.2.~~ Any such director or officer, upon conviction of a  
 566 violation of this paragraph, ~~commits is guilty of~~ a felony of  
 567 the third degree, punishable as provided in s. 775.082, s.  
 568 775.083, or s. 775.084.

569 Section 9. Section 627.0613, Florida Statutes, is amended  
 570 to read:

571 627.0613 Consumer advocate.—

572 (1) The Chief Financial Officer must appoint a consumer  
 573 advocate who must represent the general public of the state  
 574 before the department and the office. The consumer advocate must  
 575 report directly to the Chief Financial Officer, but is not

576 otherwise under the authority of the department or of any  
 577 employee of the department. The consumer advocate has such  
 578 powers as are necessary to carry out the duties of the office of  
 579 consumer advocate, including, but not limited to, the powers to:

580 (a)~~(1)~~ Recommend to the department or office, by petition,  
 581 the commencement of any proceeding or action; appear in any  
 582 proceeding or action before the department or office; or appear  
 583 in any proceeding before the Division of Administrative Hearings  
 584 relating to subject matter under the jurisdiction of the  
 585 department or office.

586 (b)~~(2)~~ Have access to and use of all files, records, and  
 587 data of the department or office.

588 (c)~~(3)~~ Examine rate and form filings submitted to the  
 589 office, hire consultants as necessary to aid in the review  
 590 process, and recommend to the department or office any position  
 591 deemed by the consumer advocate to be in the public interest.

592 (d)~~(4)~~ Prepare an annual budget for presentation to the  
 593 Legislature by the department, which budget must be adequate to  
 594 carry out the duties of the office of consumer advocate.

595 (2) By March 1 of each year, and in conjunction with the  
 596 department and the office, the consumer advocate shall prepare  
 597 and make publicly available a report analyzing rate filings in  
 598 the previous year in which a rate increase was requested and  
 599 approved by the office and summarizing the grounds on which each  
 600 increase was approved.

601 Section 10. Paragraph (kk) of subsection (6) of section  
 602 627.351, Florida Statutes, is amended to read:

603 627.351 Insurance risk apportionment plans.—

604 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

605 ~~(kk) A corporation policyholder making a claim for water~~  
 606 ~~damage against the corporation has the burden of proving that~~  
 607 ~~the damage was not caused by flooding.~~

608 Section 11. Subsection (3) is added to section 627.35191,  
 609 Florida Statutes, to read:

610 627.35191 Required reports.—

611 (3) By January 1 of each year, Citizens Property Insurance  
 612 Corporation shall also provide to the Legislature and the  
 613 Financial Services Commission a supplemental report on an  
 614 individual and group basis for closed claims. The report must be  
 615 on a form prescribed by the commission and must include the  
 616 following information for each claim closed, excluding liability  
 617 only claims, within the reporting period in this state:

618 (a) The unique claim identification number.

619 (b) The type of policy.

620 (c) The zip code of the property where the claim occurred.

621 (d) The county where the claim occurred.

622 (e) The date of loss.

623 (f) The peril or type of loss, including information

624 about:

625 1. The types of vendors used for mitigation, repair, or

626 replacement; and

627 2. The names of vendors used, if known.

628 (g) The date the claim was reported to the corporation.

629 (h) The initial date the claim was closed, including  
630 information about whether the claim was closed with or without  
631 payment.

632 (i) The date the claim was most recently reopened, if  
633 applicable.

634 (j) The date a supplemental claim was filed, if  
635 applicable.

636 (k) The date the claim was most recently closed, if  
637 different from the initial date the claim was closed.

638 (l) The name of the public adjuster on the claim, if any.

639 (m) The Florida Bar number and name of the attorney for  
640 the claimant, if any.

641 (n) The total indemnity paid by the corporation.

642 (o) The total loss adjustment expenses paid by the  
643 corporation.

644 (p) The amount paid for the claimant's and the  
645 corporation's attorney fees, if any, listed separately,  
646 specifying the amount incurred during prelitigation or appraisal  
647 and the amount incurred during arbitration or litigation, as  
648 applicable.

649 (q) The amount paid in costs for the claimant's and  
650 corporation's attorney's expenses, including, but not limited

HB 1431

2023

651 to, expert witness fees.

652 (r) The contingency risk multiplier, if any, that the  
653 claimant's attorney requested to be applied in calculating the  
654 attorney fees awarded to the claimant's attorney.

655 (s) The contingency risk multiplier, if any, that a court  
656 applied in calculating the attorney fees awarded to the  
657 claimant's attorney.

658 (t) Any other information deemed necessary by the  
659 commission to provide the corporation with the ability to track  
660 litigation and claims trends occurring in the property market.

661 Section 12. Paragraph (f) is added to subsection (2) of  
662 section 627.4133, Florida Statutes, to read:

663 627.4133 Notice of cancellation, nonrenewal, or renewal  
664 premium.—

665 (2) With respect to any personal lines or commercial  
666 residential property insurance policy, including, but not  
667 limited to, any homeowner, mobile home owner, farmowner,  
668 condominium association, condominium unit owner, apartment  
669 building, or other policy covering a residential structure or  
670 its contents:

671 (f) Notwithstanding this section or any other law to the  
672 contrary, an insurer providing homeowner's insurance may not  
673 cancel, nonrenew, or terminate a policy during a pending claim,  
674 except for nonpayment of premium.

675 Section 13. Section 627.420, Florida Statutes, is amended

676 to read:

677 627.420 Binders.—

678 (1) Binders or other contracts for temporary property,  
 679 marine, casualty, or surety insurance may be made orally or in  
 680 writing, and shall be deemed to include all the usual terms of  
 681 the policy as to which the binder was given together with such  
 682 applicable endorsements as are designated in the binder, except  
 683 as superseded by the clear and express terms of the binder. No  
 684 notice of cancellation or notice of nonrenewal otherwise  
 685 required by this chapter shall be required unless the duration  
 686 of the binder exceeds 60 days. However, for purposes of ss.  
 687 627.728 and 627.7281, an insurer shall give 5 days' prior notice  
 688 of cancellation of a binder, unless the binder is replaced by a  
 689 policy or another binder in the same or another company.

690 (2) Notwithstanding subsection (1) and any other law, an  
 691 insurer that issues a homeowner's insurance binder before  
 692 closing to a purchaser of residential property may not cancel  
 693 coverage, require additional repairs as a condition of coverage,  
 694 or increase the policy premium for the first contract year of  
 695 the homeowner's insurance policy. An insurer must perform any  
 696 required inspections before binding coverage. For a new home  
 697 purchase, a seller must allow access to the property for the  
 698 purpose of such inspection before closing.

699 Section 14. Paragraph (a) of subsection (10) of section  
 700 627.701, Florida Statutes, is amended to read:

HB 1431

2023

701           627.701 Liability of insureds; coinsurance; deductibles.—

702           (10) (a) Notwithstanding any other provision of law, an  
703 insurer issuing a personal lines residential property insurance  
704 policy may include in such policy a separate roof deductible  
705 that meets all of the following requirements:

706           1. The insurer has complied with the offer requirements  
707 under subsection (7) regarding a deductible applicable to losses  
708 from perils other than a hurricane.

709           2. The roof deductible may not exceed the lesser of 2  
710 percent of the Coverage A limit of the policy or 50 percent of  
711 the cost to replace the roof.

712           3. The premium that a policyholder is charged for the  
713 policy includes an actuarially sound credit or premium discount  
714 for the roof deductible.

715           4. The roof deductible applies only to a claim adjusted on  
716 a replacement cost basis.

717           5. The roof deductible does not apply to any of the  
718 following events:

719           a. A total loss to a primary structure in accordance with  
720 the valued policy law under s. 627.702 which is caused by a  
721 covered peril.

722           b. A roof loss resulting from a hurricane as defined in s.  
723 627.4025(2)(c).

724           c. A roof loss resulting from a tree fall or other hazard  
725 that damages the roof and punctures the roof deck.

726 d. A roof loss requiring the repair of less than 50  
 727 percent of the roof.

728  
 729 If a roof deductible is applied, no other deductible under the  
 730 policy may be applied to the loss or to any other loss to the  
 731 property caused by the same covered peril.

732 Section 15. Paragraph (c) is added to subsection (1) of  
 733 section 627.7011, Florida Statutes, to read:

734 627.7011 Homeowners' policies; offer of replacement cost  
 735 coverage and law and ordinance coverage.—

736 (1) Prior to issuing a homeowner's insurance policy, the  
 737 insurer must offer each of the following:

738 (c) If a homeowner's insurance policy provides an option  
 739 with limited coverage, a premium for such reduced coverage which  
 740 includes a substantial, actuarially sound premium discount or  
 741 credit for the impact of the reduced coverage.

742  
 743 An insurer is not required to make the offers required by this  
 744 subsection with respect to the issuance or renewal of a  
 745 homeowner's policy that contains the provisions specified in  
 746 paragraph (b) for law and ordinance coverage limited to 25  
 747 percent of the dwelling limit, except that the insurer must  
 748 offer the law and ordinance coverage limited to 50 percent of  
 749 the dwelling limit. This subsection does not prohibit the offer  
 750 of a guaranteed replacement cost policy.

751 Section 16. Section 627.70111, Florida Statutes, is  
 752 created to read:

753 627.70111 Inspections of residential property; required  
 754 notice to homeowners.-A homeowner must be notified at least 48  
 755 hours before any inspection of the homeowner's residential  
 756 property which is required for insurance purposes, unless the  
 757 homeowner agrees to a shorter timeframe.

758 Section 17. Paragraph (a) of subsection (7) of section  
 759 627.70131, Florida Statutes, is amended to read:

760 627.70131 Insurer's duty to acknowledge communications  
 761 regarding claims; investigation.-

762 (7)(a) Within 90 days after an insurer receives notice of  
 763 an initial, reopened, or supplemental property insurance claim  
 764 from a policyholder, the insurer shall pay or deny such claim or  
 765 a portion of the claim unless the failure to pay is caused by  
 766 factors beyond the control of the insurer which reasonably  
 767 prevent such payment. The insurer shall provide a reasonable  
 768 explanation in writing to the policyholder of the basis in the  
 769 insurance policy, in relation to the facts or applicable law,  
 770 for the payment, denial, or partial denial of a claim. If the  
 771 insurer's claim payment is less than specified in any insurer's  
 772 detailed estimate of the amount of the loss, the insurer must  
 773 provide a reasonable explanation in writing of the difference to  
 774 the policyholder. Any payment of an initial or supplemental  
 775 claim or portion of such claim made 90 days after the insurer

776 receives notice of the claim, or made more than 15 days after  
 777 there are no longer factors beyond the control of the insurer  
 778 which reasonably prevented such payment, whichever is later,  
 779 bears interest at the rate set forth in s. 55.03. Interest  
 780 begins to accrue from the date the insurer receives notice of  
 781 the claim. The provisions of this subsection may not be waived,  
 782 voided, or nullified by the terms of the insurance policy. If  
 783 there is a right to prejudgment interest, the insured must  
 784 select whether to receive prejudgment interest or interest under  
 785 this subsection. Interest is payable when the claim or portion  
 786 of the claim is paid. Failure to comply with this subsection  
 787 constitutes a violation of this code, and repeated violations  
 788 constitute an unfair method of competition and an unfair or  
 789 deceptive act or practice as defined in s. 626.9541(1). ~~However,~~  
 790 ~~failure to comply with this subsection does not form the sole~~  
 791 ~~basis for a private cause of action.~~

792 Section 18. Subsection (2) of section 627.70132, Florida  
 793 Statutes, is amended to read:

794 627.70132 Notice of property insurance claim.—

795 (2) A claim or reopened claim, but not a supplemental  
 796 claim, under an insurance policy that provides property  
 797 insurance, as defined in s. 624.604, including a property  
 798 insurance policy issued by an eligible surplus lines insurer,  
 799 for loss or damage caused by any peril is barred unless notice  
 800 of the claim was given to the insurer in accordance with the

801 terms of the policy within 1 year after the date of loss. A  
 802 supplemental claim is barred unless notice of the supplemental  
 803 claim was given to the insurer in accordance with the terms of  
 804 the policy within 18 months after the date of loss. The time  
 805 limitations of this subsection are tolled during the period of  
 806 active duty for an insured in active military service.

807 Section 19. Subsection (4) and paragraph (a) of subsection  
 808 (6) of section 627.70152, Florida Statutes, are amended, and  
 809 subsection (8) is added to that section, to read:

810 627.70152 Suits arising under a property insurance  
 811 policy.—

812 (4) INSURER DUTIES.—An insurer must have a procedure for  
 813 the prompt investigation, review, and evaluation of the dispute  
 814 stated in the notice and must investigate each claim contained  
 815 in the notice in accordance with the Florida Insurance Code. An  
 816 insurer must respond in writing within 10 business days after  
 817 receiving the notice specified in subsection (3). The insurer  
 818 must provide the response to the department by e-mail and, ~~to~~  
 819 ~~the claimant by e-mail~~ if the insured has designated an e-mail  
 820 address in the notice, must provide the response to the insured  
 821 by e-mail.

822 (a) If an insurer is responding to a notice served on the  
 823 insurer following a denial of coverage by the insurer, the  
 824 insurer must respond by:

- 825 1. Accepting coverage;

826           2. Continuing to deny coverage; or  
 827           3. Asserting the right to reinspect the damaged property.  
 828 If the insurer responds by asserting the right to reinspect the  
 829 damaged property, it has 14 business days after the response  
 830 asserting that right to reinspect the property and accept or  
 831 continue to deny coverage. The time limits provided in s. 95.11  
 832 are tolled during the reinspection period if such time limits  
 833 expire before the end of the reinspection period. If the insurer  
 834 continues to deny coverage, the claimant may file suit without  
 835 providing additional notice to the insurer.

836           (b) If an insurer is responding to a notice provided to  
 837 the insurer alleging an act or omission by the insurer other  
 838 than a denial of coverage, the insurer must respond by making a  
 839 settlement offer or requesting ~~requiring~~ the claimant to  
 840 participate in appraisal or another method of alternative  
 841 dispute resolution. A policy must require a claimant's consent  
 842 to participate in appraisal. Appraisal must be invoked within 30  
 843 days after presentation of a dispute, but may not be initially  
 844 invoked after the filing of a lawsuit. The time limits provided  
 845 in s. 95.11 are tolled as long as appraisal or other alternative  
 846 dispute resolution is ongoing if such time limits expire during  
 847 the appraisal process or dispute resolution process. If the  
 848 appraisal or alternative dispute resolution has not been  
 849 concluded within 90 days after the expiration of the 10-day  
 850 notice of intent to initiate litigation specified in subsection

851 (3), the claimant or claimant's attorney may immediately file  
 852 suit without providing the insurer additional notice.

853 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice  
 854 provided pursuant to subsection (3) and, if applicable, the  
 855 documentation to support the information provided in the notice:

856 (a) Are ~~not~~ admissible as evidence only in a any  
 857 proceeding regarding attorney fees.

858 (8) ALTERNATIVE DISPUTE RESOLUTION PROCESS.—

859 Notwithstanding any contractual provision to the contrary, any  
 860 alternative dispute resolution process entered into pursuant to  
 861 this section must be authorized by statute.

862 Section 20. Section 627.70155, Florida Statutes, is  
 863 created to read:

864 627.70155 Prohibited venue and controlling law  
 865 provisions.—A residential or commercial property insurance  
 866 policy, including a residential or commercial property insurance  
 867 policy issued by an eligible surplus lines insurer, may not  
 868 require:

869 (1) An insured to bring an administrative or legal action  
 870 in a venue outside of this state;

871 (2) Any arbitration, mediation, or other legal proceeding  
 872 to be conducted outside of this state; or

873 (3) That a law of a state other than this state be applied  
 874 to any legal proceeding between the insured and insurer.

875 Section 21. Paragraph (a) of subsection (1) of section

876 627.702, Florida Statutes, is amended to read:

877 627.702 Valued policy law.—

878 (1)(a) In the event of the total loss of any building,  
 879 structure, mobile home as defined in s. 320.01(2), or  
 880 manufactured building as defined in s. 553.36(13), located in  
 881 this state and insured by any insurer as to a covered peril, in  
 882 the absence of any change increasing the risk without the  
 883 insurer's consent and in the absence of fraudulent or criminal  
 884 fault on the part of the insured or one acting in her or his  
 885 behalf, the insurer's liability under the policy for such total  
 886 loss, if caused by a covered peril, shall be in the amount of  
 887 money for which such property was so insured as specified in the  
 888 policy and for which a premium has been charged and paid. A  
 889 total loss under this paragraph may not be subject to any  
 890 requirement for the insured to participate in appraisal.

891 Section 22. Subsection (6) of section 768.79, Florida  
 892 Statutes, is amended to read:

893 768.79 Offer of judgment and demand for judgment.—

894 (6) For a first-party property insurance breach of  
 895 contract action, a property insurer may make a joint offer of  
 896 judgment or settlement, and a plaintiff may make a joint demand  
 897 for judgment or settlement, which ~~that~~ is conditioned on the  
 898 mutual acceptance of all the joint offerees.

899 Section 23. This act shall take effect July 1, 2023.