

By Senator Polsky

30-00313-26

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A bill to be entitled

An act relating to the resolution of disputed property insurance claims; amending s. 627.7015, F.S.; requiring, rather than authorizing, parties in a property insurance claim dispute to participate in mediation; providing that mediation is a condition precedent to commencing litigation; deleting provisions relating to the eligibility of claims for mediation; providing that the parties may mutually agree to conduct the mediation by teleconference or other electronic means; requiring all insureds, or their representatives, to attend the mediation; revising and specifying duties relating to the parties bearing certain costs of mediation; requiring, rather than authorizing, the Department of Financial Services to adopt certain rules; authorizing the department to adopt certain emergency rules; requiring the policyholder to provide the insurer with any information and certain documents within a specified timeframe after mediation is invoked; revising conditions under which a policyholder has a certain timeframe to rescind a settlement; revising the definition of the term "claim"; providing and revising construction; amending s. 627.7074, F.S.; conforming a provision to changes made by the act; providing an appropriation; providing effective dates.

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

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30 Section 1. Section 627.7015, Florida Statutes, is amended
31 to read:

32 627.7015 Mandatory mediation ~~Alternative procedure~~ for
33 resolution of disputed property insurance claims.—

34 (1) This section sets forth a nonadversarial ~~alternative~~
35 dispute resolution procedure for a mediated claim resolution
36 conference prompted by the need for effective, fair, and timely
37 handling of property insurance claims. There is a particular
38 need for an informal, nonthreatening forum for helping parties
39 ~~who elect this procedure to~~ resolve their claims disputes
40 because most homeowner and commercial residential insurance
41 policies obligate policyholders to participate in a potentially
42 expensive and time-consuming adversarial appraisal process
43 before litigation. The procedure set forth in this section is
44 designed to bring the parties together for a mediated claims
45 settlement conference without any of the trappings or drawbacks
46 of an adversarial process. Before participating in ~~resorting to~~
47 these procedures, policyholders and insurers are encouraged to
48 resolve claims as quickly and fairly as possible. This section
49 applies ~~is available with respect to~~ claims under personal lines
50 and commercial residential policies before commencing the
51 appraisal process and is a condition precedent to, ~~or before~~
52 commencing litigation. ~~Mediation may be requested only by the~~
53 ~~policyholder, as a first-party claimant, a third-party, as an~~
54 ~~assignee of the policy benefits, or the insurer. However,~~ An
55 insurer is not required to participate in any mediation
56 requested by a third-party assignee of the policy benefits. ~~If~~
57 ~~requested by the policyholder,~~ Participation by legal counsel is
58 permitted. Mediation under this section is also required of

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59 ~~available to~~ litigants referred to the department by a county
60 court or circuit court. This section does not apply to
61 commercial coverages, to private passenger motor vehicle
62 insurance coverages, or to disputes relating to liability
63 coverages in policies of property insurance.

64 (2) At the time of issuance and renewal of a policy or at
65 the time a first-party claim within the scope of this section is
66 filed by the policyholder, the insurer shall notify the
67 policyholder of ~~its right to participate in the mandatory~~
68 mediation program under this section. ~~A claim becomes eligible~~
69 ~~for mediation after the insurer complies with s. 627.70131(7) or~~
70 ~~elects to reinspect pursuant to s. 627.70152(4)(a)3. If the~~
71 ~~insurer has not complied with s. 627.70131(7) or elected to~~
72 ~~reinspect pursuant to s. 627.70152(4)(a)3. within 90 days after~~
73 ~~notice of the loss, the insurer may not require mediation under~~
74 ~~this section. This subsection does not impair the right of an~~
75 ~~insurance company to request mediation after a determination of~~
76 ~~coverage pursuant to this section or require appraisal or~~
77 ~~another method of alternative dispute resolution pursuant to s.~~
78 ~~627.70152(4)(b).~~ The department shall prepare a consumer
79 information pamphlet for distribution to persons participating
80 in mediation.

81 (3) If the parties mutually agree, mediation may be
82 conducted by teleconference or other electronic means in lieu of
83 appearing in person. All named insureds, or their
84 representatives, must attend the mediation, regardless of how it
85 is conducted. The costs of mediation must be reasonable, and the
86 insurer must bear all of the cost of conducting mediation
87 conferences, except as otherwise provided in this section. If a

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88 named insured or his or her representative ~~policyholder~~ fails to
89 appear at the conference, thus preventing the mediation from
90 proceeding, the conference must be rescheduled upon the
91 policyholder's payment of the costs of a rescheduled conference.
92 If the insurer fails to appear at the conference, the insurer
93 must pay the policyholder's actual cash expenses incurred in
94 attending the conference if the insurer's failure to attend was
95 not due to a good cause acceptable to the department. An insurer
96 ~~is~~ will be deemed to have failed to appear if the insurer's
97 representative lacks authority to settle the full value of the
98 claim. The insurer shall incur an additional fee for a
99 rescheduled conference necessitated by the insurer's failure to
100 appear at a scheduled conference. The fees assessed by the
101 department must include a charge necessary to defray the
102 expenses of the department related to its duties under this
103 section and must be deposited in the Insurance Regulatory Trust
104 Fund. The department may suspend the insurer's authority to
105 appoint licensees if the insurer does not timely pay the
106 required fees. If a party elects to request an expert or a
107 representative to attend the mediation, that party must bear any
108 costs for the attendance of the expert or representative.

109 (4) The department shall adopt by rule a property insurance
110 mediation program to be administered by the department or its
111 designee. The department shall ~~may~~ also adopt special rules that
112 ~~which~~ are applicable in cases of an emergency within this the
113 state, including emergency rules as necessary to establish
114 physical addresses for the mediation program in areas affected
115 by natural disasters. The rules shall be modeled after practices
116 and procedures set forth in mediation rules of procedure adopted

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by the Supreme Court. The rules shall provide for all of the
following:

(a) Reasonable requirements ~~requirement~~ for processing and scheduling of requests for mediation.

(b) Qualifications for persons who apply to be mediators,
grounds for denial of applications ~~application~~, revocation of
the department's approval of mediators, and grounds for
suspension, ~~revocation of approval~~, and other penalties for
mediators, as provided in s. 627.745 and the Florida Rules for
Certified and Court-Appointed Mediators.

(c) Provisions governing who may attend mediation
conferences.

(d) Selection of mediators.

(e) Criteria for the conduct of mediation conferences.

(f) Right to legal counsel.

(5) (a) All statements made and documents produced at a
mediation conference shall be deemed to be settlement
negotiations in anticipation of litigation within the scope of
s. 90.408. All parties to the mediation must negotiate in good
faith and must have the authority to immediately settle the
claim. Mediators are deemed to be agents of the department and
shall have the immunity from suit provided in s. 44.107.

(b) Within 10 days after mediation is invoked, the
policyholder must provide to the insurer any information and
supporting documents that serve as the basis for the claim.

(6) (a) Mediation is nonbinding; however, if a written
settlement is reached and the policyholder is not represented by
an attorney or a public adjuster, the policyholder has 3
business days within which the policyholder may rescind the

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146 settlement unless the policyholder has cashed or deposited any
147 check or draft disbursed to the policyholder for the disputed
148 matters as a result of the conference. If a settlement agreement
149 is reached and is not rescinded, it is binding and acts as a
150 release of all specific claims that were presented in that
151 mediation conference.

152 (b) At the conclusion of the mediation, the mediator shall
153 provide a written report of the results of mediation, including
154 any settlement amount, to the insurer, the policyholder, and the
155 policyholder's representative if the policyholder is represented
156 at the mediation.

157 (7) If the insurer fails to comply with subsection (2) by
158 failing to notify a policyholder of ~~its right to participate in~~
159 the mandatory mediation program under this section or if ~~the~~
160 ~~insurer requests the mediation, and~~ the mediation results are
161 rejected by either party, the policyholder is not required to
162 submit to or participate in any contractual loss appraisal
163 process of the property loss damage as a precondition to legal
164 action for breach of contract against the insurer for its
165 failure to pay the policyholder's claims covered by the policy.

166 (8) The department may designate an entity or person to
167 serve as administrator to carry out any of the provisions of
168 this section and may take this action by means of a written
169 contract or agreement.

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

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

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

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

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

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

(10) Participation in mediation under this section before the policyholder's filing of a notice under s. 627.70152 does not prohibit or waive an insurer's right to invoke and participate in mediation under this section in response to the notice.

Section 2. Subsection (3) of section 627.7074, Florida Statutes, is amended to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(3) If there is coverage available under the policy and the claim was submitted within the timeframe provided in s. 627.706(5), following the receipt of the report provided under s. 627.7073 or the denial of a claim for a sinkhole loss, the insurer shall notify the policyholder of his or her right to participate in the neutral evaluation program under this section. Neutral evaluation supersedes the mediation ~~alternative~~

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~~dispute resolution~~ process under s. 627.7015 but does not
invalidate the appraisal clause of the insurance policy. The
insurer shall provide to the policyholder the consumer
information pamphlet prepared by the department pursuant to
subsection (1) electronically or by United States mail.

Section 3. Effective July 1, 2026, for the 2026-2027 fiscal
year, the sum of \$1 million in recurring funds is appropriated
from the Insurance Regulatory Trust Fund to the Department of
Financial Services for the purpose of administering the
amendment made by this act to s. 627.7015, Florida Statutes.

Section 4. Except as otherwise expressly provided in this
act and except for this section, which shall take effect July 1,
2026, this act shall take effect January 1, 2027.