A bill to be entitled

An act relating to property insurance claims; amending s. 627.7015, F.S.; establishing a mandatory procedure for resolution of disputed property insurance claims; deleting obsolete provisions; revising legislative intent and purpose; requiring certain entities to administer a specified law in a certain manner; requiring insurers, at specified times, to notify policyholders of the mandatory procedure; requiring the Department of Financial Services to prepare a consumer information pamphlet to be provided to policyholders at specified times; authorizing a policyholder or an insurer to file a petition with the Division of Administrative Hearings to resolve certain claims; specifying requirements for the filing and service of such petition; requiring the department to inform policyholders of the location of the Division of Administrative Hearings and the division's website address; specifying that the parties to the claim must bear the cost of certain conferences; requiring an administrative law judge to review the petition upon receiving it; requiring the administrative law judge to dismiss petitions that do not contain specified information; requiring that the petition include a certain certification; specifying that dismissal of a petition or a portion of a petition is without prejudice and does not require a hearing; specifying that motions to dismiss must be handled in a specified manner; requiring the insurer to pay the requested claim or file a response to the petition within a specified timeframe; specifying filing and content requirements for the insurer's response to the petition; requiring the administrative law judge to conduct proceedings in a specified manner; providing an exception; requiring the administrative law judge to make a final determination of total coverage amount within a specified timeframe; requiring such amount to be paid in a specified manner; revising the definition of the term "claim"; repealing ss. 627.70151, 627.70152, 627.70153, and 627.70154, F.S., relating to appraisal clauses in property insurance contracts, suits arising under a property insurance policy, consolidation of residential property insurance actions, and mandatory binding arbitration of property insurance policies, respectively; amending ss. 627.351, 627.70131, and 627.7074, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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

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

(1) This section sets forth a ~~nonadversarial alternative~~ dispute resolution procedure for an ~~a mediated claim resolution conference prompted by the need for~~ effective, fair, and timely resolution ~~handling~~ of disputed property insurance claims. There is a particular need for a mandatory ~~an informal, nonthreatening~~ forum, available at the election of either party, for helping parties ~~who elect this procedure to~~ resolve their claims disputes regarding ~~because most~~ homeowner and commercial residential insurance policies ~~obligate policyholders to participate in a potentially expensive and time-consuming adversarial appraisal process before litigation~~. The procedure set forth in this section is designed to bring the parties together to ensure the efficient delivery of the coverage offered under the policy, helping to restore an owner's property and livelihood to normalcy after a disaster or loss while maintaining reasonable costs to the insurer ~~for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process~~. Before participating in ~~resorting to~~ these procedures, policyholders and insurers are encouraged to resolve claims as quickly and fairly as possible.

The department, the office, and the Division of Administrative Hearings shall administer this section in a manner that facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments to insureds ~~This section is available with respect to claims under personal lines and commercial residential policies before commencing the appraisal process , or before commencing litigation~~. ~~Mediation may be requested only by the policyholder, as a first-party claimant, a third-party, as an assignee of the policy benefits, or the insurer. However, an insurer is not required to participate in any mediation requested by a third-party assignee of the policy benefits. If requested by the policyholder,~~ Participation by legal counsel is permitted but is not required. Expert testimony may be used in the procedure, regardless of whether legal counsel is participating. ~~Mediation under this section is also available to litigants referred to the department by a county court or circuit court.~~ This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(2) At the time of issuance and renewal of a policy or at the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder of the mandatory procedure ~~its right to participate in the mediation program under this section~~. ~~A claim becomes~~

~~eligible for mediation after the insurer complies with s. 627.70131(7) or elects to reinspect pursuant to s. 627.70152(4)(a)3. If the insurer has not complied with s. 627.70131(7) or elected to reinspect pursuant to s. 627.70152(4)(a)3. within 90 days after notice of the loss, the insurer may not require mediation under this section. This subsection does not impair the right of an insurance company to request mediation after a determination of coverage pursuant to this section or require appraisal or another method of alternative dispute resolution pursuant to s. 627.70152(4)(b).~~ The department shall prepare a consumer information pamphlet ~~for distribution~~ to be provided to policyholders at the time of issuance and renewal of the policy and upon the Governor's declaration of a state of emergency within the policyholder's county ~~persons participating in mediation~~.

(3) A policyholder or an insurer may, for any claim that is ripe, due, and owing, file a petition with the Division of Administrative Hearings to resolve claims which meets the requirements of this section. A party represented by an attorney shall file by electronic means. A party not represented by an attorney may file by certified mail or by electronic means. The department shall inform policyholders of the location of the Division of Administrative Hearings and the division's website address for purposes of filing a petition for resolving a claim. The policyholder shall also serve, by certified mail or

electronic means, copies of the petition to resolve claims on the insurer. The costs of the procedure ~~mediation~~ must be reasonable, and the parties ~~insurer~~ must bear all of the cost of conducting ~~mediation~~ conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference ~~if the insurer's failure to attend was not due to a good cause acceptable to the department~~. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department may suspend the insurer's authority to appoint licensees if the insurer does not timely pay the required fees.

(4) Upon receipt of the petition, an administrative law judge shall review it and shall dismiss any petition or any portion of such petition which does not on its face specifically

identify or itemize all of the following information:

(a) The policyholder's name, address, telephone number, and social security number.

(b) The insurer's name, address, and telephone number.

(c) A detailed description of the loss or damage for which the claim has been filed, including the date it occurred.

(d) The alleged acts or omissions of the insurer giving rise to the dispute, including, if applicable, a denial of coverage.

(e) An estimate of damages, if known, and the amount that is disputed by the insurer.

(f) A specific explanation of any other disputed issue that the administrative law judge will be called to rule upon ~~The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee~~. ~~The department may also adopt special rules which are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules shall provide for:~~

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

~~(b) Qualifications , denial of application, 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) The petition must include a certification by the policyholder or, if the policyholder is represented by counsel, the policyholder's attorney stating that the policyholder or attorney, as applicable, has made a good faith effort to resolve the dispute with the insurer and that the policyholder or attorney was unable to resolve the dispute with the insurer ~~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~~.

(6)~~(a)~~ The dismissal of any petition or portion of such a petition under this section is without prejudice and does not require a hearing ~~Mediation is nonbinding; however, if a written settlement is reached, the policyholder has 3 business days within which the policyholder may rescind the settlement unless the policyholder has cashed or deposited any check or draft~~

~~disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference~~.

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

(7) All motions to dismiss must be handled as specified in s. 440.192(5) ~~If the insurer fails to comply with subsection (2) by failing to notify a policyholder of its right to participate in the mediation program under this section or if the insurer requests the mediation, and the mediation results are rejected by either party, the policyholder is not required to submit to or participate in any contractual loss appraisal process of the property loss damage as a precondition to legal action for breach of contract against the insurer for its failure to pay the policyholder's claims covered by the policy~~.

(8) Within 14 days after receipt of the petition, the insurer shall pay the requested claim or file a response to the petition with the Division of Administrative Hearings. If the insurer files a response to the petition, the response must be filed by electronic means. Such response must specify all claims

requested but not paid and explain the insurer's reason for nonpayment. The insurer shall provide copies of the response to the policyholder by certified mail or by electronic means. In ruling on the petition and response to the petition, the administrative law judge shall conduct proceedings in a manner consistent with the process outlined in s. 440.25, except that the administrative law judge shall make a determination within 60 days after the filing of the policyholder's petition. After determining coverage, the administrative law judge shall make a final determination of the total coverage amount within 180 days after the filing of the petition, which must be paid to the policyholder or held in escrow on the policyholder's behalf until exhausted for covered claims ~~The department may designate an entity or person to serve as administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement~~.

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

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

(b) When 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.

Section 2. <u>Section 627.70151, Florida Statutes, is repealed.</u>

Section 3. <u>Section 627.70152, Florida Statutes, is repealed.</u>

Section 4. <u>Section 627.70153, Florida Statutes, is repealed.</u>

Section 5. <u>Section 627.70154, Florida Statutes, is repealed.</u>

Section 6. Paragraph (ll) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(ll)1. In addition to any other method of alternative dispute resolution authorized by state law, the corporation may adopt policy forms that provide for the resolution of disputes regarding its claim determinations, including disputes regarding coverage for, or the scope and value of, a claim, in a proceeding before the Division of Administrative Hearings. ~~Any such policies are not subject to s. 627.70154.~~ All proceedings in the Division of Administrative Hearings pursuant to such policies are subject to ss. 57.105 and 768.79 as if filed in the courts of this state and are not considered chapter 120 administrative proceedings. Rule 1.442, Florida Rules of Civil Procedure, applies to any offer served pursuant to s. 768.79, except that, notwithstanding any provision in Rule 1.442, Florida Rules of Civil Procedure, to the contrary, an offer shall not be served earlier than 10 days after filing the request for hearing with the Division of Administrative Hearings and shall not be served later than 10 days before the date set for the final hearing. The administrative law judge in such proceedings shall award attorney fees and other relief pursuant to ss. 57.105 and 768.79. The corporation may not seek, and the office may not approve, a maximum hourly rate for attorney fees.

2. The corporation may contract with the division to conduct proceedings to resolve disputes regarding its claim determinations as may be provided for in the applicable policies of insurance. This subparagraph expires July 1, 2026.

Section 7. Paragraph (a) of subsection (8) of section 627.70131, Florida Statutes, is amended to read:

627.70131 Insurer's duty to acknowledge communications regarding claims; investigation.—

(8) The requirements of this section are tolled:

(a) During the pendency of any proceedings ~~mediation proceeding~~ under s. 627.7015 or any alternative dispute resolution proceeding provided for in the insurance contract. The tolling period ends upon the end of the proceedings ~~mediation~~ or alternative dispute resolution proceeding.

Section 8. 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 alternative 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 9. This act shall take effect July 1, 2026.