

1                                   A bill to be entitled  
 2           An act relating to insurance; creating s. 11.91, F.S.;  
 3           creating the Property Insurance Commission; providing  
 4           for membership of the commission; providing powers and  
 5           duties of the commission; amending s. 20.121, F.S.;  
 6           providing for the election of the Commissioner of  
 7           Insurance Regulation; providing terms for the  
 8           commissioner; conforming provisions to changes made by  
 9           the act; creating s. 112.3134, F.S.; prohibiting the  
 10          commissioner from engaging in certain activities or  
 11          employment for a specified period after leaving  
 12          office; providing sanctions for violations;  
 13          authorizing specified entities to collect penalties;  
 14          amending s. 215.5586, F.S.; revising homeowners'  
 15          eligibility criteria for mitigation grants under the  
 16          My Safe Florida Home Program; amending s. 494.0026,  
 17          F.S.; requiring interests earned on insurance proceeds  
 18          received by mortgagees and assignees to be paid to  
 19          insureds; amending s. 624.401, F.S.; prohibiting  
 20          property insurers from claiming insolvency under  
 21          specified circumstances; authorizing persons who  
 22          engage in property insurance activities in other  
 23          states to engage in insurance activities in this state  
 24          under certain circumstances; amending s. 627.0629,  
 25          F.S.; requiring residential property insurers to

26 release specified information to insureds upon  
 27 request; amending s. 627.701, F.S.; prohibiting  
 28 property insurers from using certain defenses as  
 29 claims denials; amending s. 627.715, F.S.; requiring  
 30 insurance agents to advise insurance applicants of  
 31 flood risk; amending s. 627.7152, F.S.; revising  
 32 requirements for risk assignment agreements; creating  
 33 s. 627.7155, F.S.; providing duties of the Office of  
 34 Insurance Regulation; requiring the Department of  
 35 Financial Services to adopt rules regarding  
 36 allegations of insurance fraud made by insurers or  
 37 their employees or contractors; providing requirements  
 38 for such rules; providing fines; requiring the Office  
 39 of Program Policy Analysis and Government  
 40 Accountability to conduct a study of effectiveness of  
 41 the property insurance mediation program; providing  
 42 requirements for the study; requiring a report to the  
 43 Legislature; amending chapter 2022-268, Laws of  
 44 Florida; increasing an appropriation to the My Safe  
 45 Florida Home Program; providing an effective date.

46  
 47 Be It Enacted by the Legislature of the State of Florida:

48  
 49 Section 1. Section 11.91, Florida Statutes, is created to  
 50 read:

11.91 Property Insurance Commission.—

(1) (a) There is created the Property Insurance Commission,  
which shall consist of six members:

1. Two members appointed by the President of the Senate.

2. One member appointed by the Minority Leader of the  
Senate.

3. Two members appointed by the Speaker of the House of  
Representatives.

4. One member appointed by the House Minority Leader.

(b) Each member shall serve at the pleasure of the officer  
who appointed the member. A vacancy on the commission shall be  
filled in the same manner as the original appointment. From  
November of each odd-numbered year through October of each even-  
numbered year, the chair of the commission shall be appointed by  
the President of the Senate, and the vice chair of the  
commission shall be appointed by the Speaker of the House of  
Representatives. From November of each even-numbered year  
through October of each odd-numbered year, the chair of the  
commission shall be appointed by the Speaker of the House of  
Representatives, and the vice chair of the commission shall be  
appointed by the President of the Senate. The terms of members  
shall be for 2 years and shall run from the organization of one  
Legislature to the organization of the next Legislature.

(2) The commission shall be governed by joint rules of the  
Senate and the House of Representatives, which shall remain in

76 | effect until repealed or amended by concurrent resolution.

77 | (3) The commission may conduct its meetings through  
 78 | teleconferences or other similar means.

79 | (4) The commission shall be staffed by legislative staff  
 80 | members, as assigned by the President of the Senate and the  
 81 | Speaker of the House of Representatives.

82 | (5) The commission has the power and duty to:

83 | (a) Review and evaluate the insurance marketplace and  
 84 | studies of the various insurance markets.

85 | (b) Review and comment on market data produced by the  
 86 | Office of Insurance Regulation.

87 | (c) Review and comment on the setting of reserve  
 88 | requirements for insurers.

89 | (d) Exercise all other powers and perform any other duties  
 90 | prescribed by the Legislature.

91 | Section 2. Paragraphs (a) and (d) of subsection (3) of  
 92 | section 20.121, Florida Statutes, are amended to read:

93 | 20.121 Department of Financial Services.—There is created  
 94 | a Department of Financial Services.

95 | (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,  
 96 | 2003, there is created within the Department of Financial  
 97 | Services the Financial Services Commission, composed of the  
 98 | Governor, the Attorney General, the Chief Financial Officer, and  
 99 | the Commissioner of Agriculture, which shall for purposes of  
 100 | this section be referred to as the commission. Commission

101 members shall serve as agency head of the Financial Services  
 102 Commission. The commission shall be a separate budget entity and  
 103 shall be exempt from the provisions of s. 20.052. Commission  
 104 action shall be by majority vote consisting of at least three  
 105 affirmative votes. The commission shall not be subject to  
 106 control, supervision, or direction by the Department of  
 107 Financial Services in any manner, including purchasing,  
 108 transactions involving real or personal property, personnel, or  
 109 budgetary matters.

110 (a) Structure.—The major structural unit of the commission  
 111 is the office. Each office shall be headed by a director. The  
 112 following offices are established:

113 1. The Office of Insurance Regulation, which shall be  
 114 responsible for all activities concerning insurers and other  
 115 risk bearing entities, including licensing, rates, policy forms,  
 116 market conduct, claims, issuance of certificates of authority,  
 117 solvency, viatical settlements, premium financing, and  
 118 administrative supervision, as provided under the insurance code  
 119 or chapter 636. The head of the Office of Insurance Regulation  
 120 is the Director of the Office of Insurance Regulation, who may  
 121 also be known as the Commissioner of Insurance Regulation.  
 122 Beginning with the General Election in 2024, the Commissioner of  
 123 Insurance Regulation shall be elected. The commissioner elected  
 124 in 2024 shall serve a term of 2 years; thereafter, the  
 125 commissioner shall serve a term of 4 years.

126           2. The Office of Financial Regulation, which shall be  
127 responsible for all activities of the Financial Services  
128 Commission relating to the regulation of banks, credit unions,  
129 other financial institutions, finance companies, and the  
130 securities industry. The head of the office is the Director of  
131 the Office of Financial Regulation, who may also be known as the  
132 Commissioner of Financial Regulation. The Office of Financial  
133 Regulation shall include a Bureau of Financial Investigations,  
134 which shall function as a criminal justice agency for purposes  
135 of ss. 943.045-943.08 and shall have a separate budget. The  
136 bureau may conduct investigations within or outside this state  
137 as the bureau deems necessary to aid in the enforcement of this  
138 section. If, during an investigation, the office has reason to  
139 believe that any criminal law of this state has or may have been  
140 violated, the office shall refer any records tending to show  
141 such violation to state or federal law enforcement or  
142 prosecutorial agencies and shall provide investigative  
143 assistance to those agencies as required.

144           (d) Appointment and qualifications of directors.—The  
145 commission shall appoint or remove each director, other than the  
146 Commissioner of Insurance Regulation, by a majority vote  
147 consisting of at least three affirmative votes, with both the  
148 Governor and the Chief Financial Officer on the prevailing side.  
149 The minimum qualifications of the directors, other than the  
150 Commissioner of Insurance Regulation, are as follows:

151 1. Prior to appointment as director, the Director of the  
 152 Office of Insurance Regulation must have had, within the  
 153 previous 10 years, at least 5 years of responsible private  
 154 sector experience working full time in areas within the scope of  
 155 the subject matter jurisdiction of the Office of Insurance  
 156 Regulation or at least 5 years of experience as a senior  
 157 examiner or other senior employee of a state or federal agency  
 158 having regulatory responsibility over insurers or insurance  
 159 agencies.

160 2. Prior to appointment as director, the Director of the  
 161 Office of Financial Regulation must have had, within the  
 162 previous 10 years, at least 5 years of responsible private  
 163 sector experience working full time in areas within the subject  
 164 matter jurisdiction of the Office of Financial Regulation or at  
 165 least 5 years of experience as a senior examiner or other senior  
 166 employee of a state or federal agency having regulatory  
 167 responsibility over financial institutions, finance companies,  
 168 or securities companies.

169 Section 3. Section 112.3134, Florida Statutes, is created  
 170 to read:

171 112.3134 Commissioner of Insurance Regulation; Office of  
 172 Insurance Regulation.—

173 (1) A person who has served as Commissioner of Insurance  
 174 Regulation may not:

175 (a) Personally represent another person or entity for

176 compensation before the Office of Insurance Regulation; or

177 (b) Serve as an employee or contractor of an entity  
 178 regulated by the Office of Insurance Regulation

179  
 180 for a period of 7 years after vacating that office.

181 (2) A person who violates subsection (1) may be punished  
 182 by:

183 (a) Public censure and reprimand;

184 (b) A civil penalty not to exceed \$10,000; or

185 (c) Forfeiture of any pecuniary benefits received for  
 186 conduct that violates this section. The amount of the pecuniary  
 187 benefits must be paid to the General Revenue Fund.

188 (3) The Attorney General and Chief Financial Officer are  
 189 independently authorized to collect any penalty imposed under  
 190 this section.

191 Section 4. Paragraph (a) of subsection (2) of section  
 192 215.5586, Florida Statutes, is amended to read:

193 215.5586 My Safe Florida Home Program.—There is  
 194 established within the Department of Financial Services the My  
 195 Safe Florida Home Program. The department shall provide fiscal  
 196 accountability, contract management, and strategic leadership  
 197 for the program, consistent with this section. This section does  
 198 not create an entitlement for property owners or obligate the  
 199 state in any way to fund the inspection or retrofitting of  
 200 residential property in this state. Implementation of this



201 program is subject to annual legislative appropriations. It is  
202 the intent of the Legislature that the My Safe Florida Home  
203 Program provide trained and certified inspectors to perform  
204 inspections for owners of site-built, single-family, residential  
205 properties and grants to eligible applicants as funding allows.  
206 The program shall develop and implement a comprehensive and  
207 coordinated approach for hurricane damage mitigation that may  
208 include the following:

209 (2) MITIGATION GRANTS.—Financial grants shall be used to  
210 encourage single-family, site-built, owner-occupied, residential  
211 property owners to retrofit their properties to make them less  
212 vulnerable to hurricane damage.

213 (a) For a homeowner to be eligible for a grant, the  
214 following criteria must be met:

215 1. The homeowner must have been granted a homestead  
216 exemption on the home under chapter 196.

217 2. The home must be a dwelling with an insured value of  
218 \$500,000 or less. Homeowners who are low-income persons, as  
219 defined in s. 420.0004(11), are exempt from this requirement.

220 3. The home must have undergone an acceptable hurricane  
221 mitigation inspection after July 1, 2008.

222 ~~4. The home must be located in the "wind-borne debris~~  
223 ~~region" as that term is defined in the Florida Building Code.~~

224 4.5. The building permit application for initial  
225 construction of the home must have been made before January 1,

226 | 2008.

227 |         6. The homeowner must agree to make his or her home  
228 | available for inspection once a mitigation project is completed.

229 |  
230 | An application for a grant must contain a signed or  
231 | electronically verified statement made under penalty of perjury  
232 | that the applicant has submitted only a single application and  
233 | must have attached documents demonstrating the applicant meets  
234 | the requirements of this paragraph.

235 |         Section 5. Subsection (2) of section 494.0026, Florida  
236 | Statutes, is amended to read:

237 |         494.0026 Disposition of insurance proceeds.—The following  
238 | provisions apply to mortgage loans held by a mortgagee or  
239 | assignee that is subject to part II or part III of this chapter.

240 |         (2) (a) Insurance proceeds received by a mortgagee or  
241 | assignee that relate to compensation for damage to property or  
242 | contents insurance coverage in which the mortgagee or assignee  
243 | has a security interest must be promptly deposited into a  
244 | segregated account of a federally insured financial institution.

245 |         (b) Any interest earned on insurance proceeds received by  
246 | a mortgagee or assignee that relate to compensation for damage  
247 | to property or contents insurance coverage in which the  
248 | mortgagee or assignee has a security interest must be paid to  
249 | the insured.

250 |

251 This section may not be construed to prevent an insurance  
252 company from paying the insured directly for additional living  
253 expenses or paying the insured directly for contents insurance  
254 coverage if the mortgagee or assignee does not have a security  
255 interest in the contents.

256 Section 6. Subsection (5) is added to section 624.401,  
257 Florida Statutes, to read:

258 624.401 Certificate of authority required.—

259 (5) (a) A property insurer may not claim insolvency in this  
260 state if the insurer still acts as an insurer, transacts  
261 insurance, or otherwise engages in insurance activities in any  
262 state other than this state, regardless whether or not these  
263 insurance activities are property insurance activities.

264 (b) Effective January 1, 2024, any person who acts as a  
265 property insurer, transacts property insurance, or otherwise  
266 engages in property insurance activities in any state other than  
267 this state may act as an insurer, transact insurance, or  
268 otherwise engage in insurance activities in this state only if  
269 that person does not exclude property insurance from the  
270 person's insurance transactions or activities.

271 Section 7. Subsection (9) is added to section 627.0629,  
272 Florida Statutes, to read:

273 627.0629 Residential property insurance; rate filings.—

274 (9) An insurer must release to an insured all information  
275 relating to an inspection or an underwriting report upon the

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276 insured's request.

277 Section 8. Subsection (11) is added to section 627.701,  
278 Florida Statutes, to read:

279 627.701 Liability of insureds; coinsurance; deductibles;  
280 prohibited denials of claims.—

281 (11) A property insurer that issues or renews an insurance  
282 policy or contract covering real property in this state on or  
283 after January 1, 2024, may not use a property's preexisting  
284 condition, a date of loss that predates the date of a claim, or  
285 faulty installation or workmanship as a defense for denying a  
286 claim.

287 Section 9. Subsection (8) of section 627.715, Florida  
288 Statutes, is amended to read:

289 627.715 Flood insurance.—An authorized insurer may issue  
290 an insurance policy, contract, or endorsement providing personal  
291 lines residential coverage for the peril of flood or excess  
292 coverage for the peril of flood on any structure or the contents  
293 of personal property contained therein, subject to this section.  
294 This section does not apply to commercial lines residential or  
295 commercial lines nonresidential coverage for the peril of flood.  
296 An insurer may issue flood insurance policies, contracts,  
297 endorsements, or excess coverage on a standard, preferred,  
298 customized, flexible, or supplemental basis.

299 (8) (a) An agent must provide a written notice to be signed  
300 by every ~~the~~ applicant advising the applicant of flood risk.

301        (b) If ~~before~~ the agent places flood insurance coverage  
 302 with an admitted or surplus lines insurer for a property  
 303 receiving flood insurance under the National Flood Insurance  
 304 Program, the agent must also provide to the applicant, before  
 305 placing new flood coverage for the property, a written. ~~the~~  
 306 notice notifying ~~must notify~~ the applicant that, if the  
 307 applicant discontinues coverage under the National Flood  
 308 Insurance Program which is provided at a subsidized rate, the  
 309 full risk rate for flood insurance may apply to the property if  
 310 the applicant later seeks to reinstate coverage under the  
 311 program.

312        Section 10. Paragraph (a) of subsection (2) of section  
 313 627.7152, Florida Statutes, is amended to read:

314        627.7152 Assignment agreements.—

315        (2)(a) An assignment agreement must:

316        1. Be executed under a residential property insurance  
 317 policy or under a commercial property insurance policy as that  
 318 term is defined in s. 627.0625(1), issued on or after July 1,  
 319 2019, and before January 1, 2023.

320        2. Be in writing and executed by and between the assignor  
 321 and the assignee.

322        3. Contain a provision that allows the assignor to rescind  
 323 the assignment agreement without a penalty or fee by submitting  
 324 a written notice of rescission signed by the assignor to the  
 325 assignee within 14 days after the execution of the agreement, at

326 | least 30 days after the date work on the property is scheduled  
327 | to commence if the assignee has not substantially performed, or  
328 | at least 30 days after the execution of the agreement if the  
329 | agreement does not contain a commencement date and the assignee  
330 | has not begun substantial work on the property.

331 |         4. Contain a provision requiring the assignee to provide a  
332 | copy of the executed assignment agreement to the insurer within  
333 | 3 business days after the date on which the assignment agreement  
334 | is executed or the date on which work begins, whichever is  
335 | earlier. Delivery of the copy of the assignment agreement to the  
336 | insurer may be made:

337 |             a. By personal service, overnight delivery, or electronic  
338 | transmission, with evidence of delivery in the form of a receipt  
339 | or other paper or electronic acknowledgment by the insurer; or

340 |             b. To the location designated for receipt of such  
341 | agreements as specified in the policy.

342 |         5. Contain a written, itemized, per-unit cost estimate of  
343 | the services to be performed by the assignee.

344 |         6. Relate only to work to be performed by the assignee for  
345 | services to protect, repair, restore, or replace a dwelling or  
346 | structure or to mitigate against further damage to such  
347 | property.

348 |         7. Contain the following notice in 18-point uppercase and  
349 | boldfaced type:

350 | YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR

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

364 8. Contain a notice in 18-point uppercase and boldfaced  
365 type disclosing that the assignee is prohibited from taking any  
366 legal action without the assignor's permission, including, but  
367 not limited to, making a presuit settlement demand or presuit  
368 settlement offer.

369 ~~9.8.~~ Contain a provision requiring the assignee to  
370 indemnify and hold harmless the assignor from all liabilities,  
371 damages, losses, and costs, including, but not limited to,  
372 attorney fees.

373 Section 11. Section 627.7155, Florida Statutes, is created  
374 to read:

375 627.7155 Office rulemaking.—By January 1, 2024, the office

376 must adopt rules:

377 (1) Requiring that, each time a legislation creating or  
378 amending law to reform property insurance takes effect, property  
379 insurers must offer mandatory premium rate reduction for their  
380 insureds.

381 (2) Ensuring that insurance fraud committed by any person  
382 can be easily reported, investigated, and, if necessary,  
383 prosecuted.

384 (3) Redetermining flood zones statewide for use when  
385 assigning flood risks.

386 Section 12. The Department of Financial Services shall, no  
387 later than October 1, 2023, adopt rules regarding any allegation  
388 made by an insurer or an employee or contractor thereof of  
389 insurance fraud in violation of any provision listed in s.  
390 626.9892(2), Florida Statutes. Such rules must include  
391 requirements that:

392 (1) The Division of Investigative and Forensic Services in  
393 the Department of Financial Services must be informed by an  
394 insurer of any such allegation.

395 (2) The department shall promptly investigate such  
396 allegations.

397 (3) If the department determines that there was no fraud,  
398 the insurer alleging such fraud may be appropriately sanctioned  
399 by a fine of up to \$100,000.

400 (4) All documents relating to such sanctions shall be



401 public records.

402 Section 13. (1) The Office of Program Policy Analysis and  
 403 Government Accountability (OPPAGA) shall conduct a study to  
 404 evaluate the effectiveness of the property insurance mediation  
 405 program provided pursuant to s. 627.7015, Florida Statutes. The  
 406 study's scope must include, but need not be limited to:

407 (a) Improvements in the public's awareness of the program  
 408 and the advantages of participation in the program.

409 (b) Program resource needs.

410 (2) The study must include recommendations for any changes  
 411 needed to improve the efficiency of the program to maximize its  
 412 usefulness as an alternative to litigation.

413 (3) In conducting the study, OPPAGA shall consult with the  
 414 Department of Financial Services, insurers, and organizations  
 415 representing insurance consumers.

416 (4) OPPAGA shall submit a report on its findings to the  
 417 President of the Senate and the Speaker of the House of  
 418 Representatives by December 1, 2023.

419 Section 14. Section 4 of chapter 2022-268, Laws of  
 420 Florida, is amended to read:

421 Section 4. (1) For the 2022-2023 fiscal year, the sum of  
 422 \$300 ~~\$150~~ million in nonrecurring funds is appropriated from the  
 423 General Revenue Fund to the Department of Financial Services for  
 424 the My Safe Florida Home Program. The funds shall be placed in  
 425 reserve. The department shall submit budget amendments

426 requesting release of the funds held in reserve pursuant to  
427 chapter 216, Florida Statutes. The budget amendments shall  
428 include a detailed spending plan.

429 (2) The funds shall be allocated as follows:

430 (a) Fifty ~~Twenty-five~~ million dollars for hurricane  
431 mitigation inspections.

432 (b) Two hundred thirty ~~One hundred fifteen~~ million dollars  
433 for mitigation grants.

434 (c) Eight ~~Four~~ million dollars for education and consumer  
435 awareness.

436 (d) Two ~~One~~ million dollars for public outreach for  
437 contractors and real estate brokers and sales associates.

438 (e) Ten ~~Five~~ million dollars for administrative costs.

439 (3) Any unexpended balance of funds from this  
440 appropriation remaining on June 30, 2023, shall revert and is  
441 appropriated to the Department of Financial Services for the  
442 2023-2024 fiscal year for the same purpose.

443 (4) The department may adopt emergency rules pursuant to  
444 s. 120.54, Florida Statutes, at any time, as are necessary to  
445 implement this section and s. 215.5586, Florida Statutes, as  
446 amended by this act. The Legislature finds that such emergency  
447 rulemaking authority is necessary to address a critical need in  
448 the state's problematic property insurance market. The  
449 Legislature further finds that the uniquely short timeframe  
450 needed to effectively implement this section for the 2022-2023

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451 | fiscal year requires that the department adopt rules as quickly  
452 | as practicable. Therefore, in adopting such emergency rules, the  
453 | department need not make the findings required by s.

454 | 120.54(4)(a), Florida Statutes. Emergency rules adopted under  
455 | this section are exempt from s. 120.54(4)(c), Florida Statutes,  
456 | and shall remain in effect until replaced by rules adopted under  
457 | the nonemergency rulemaking procedures of chapter 120, Florida  
458 | Statutes, which must occur no later than July 1, 2023.

459 | (5) This section shall expire on October 1, 2024.

460 | Section 15. This act shall take effect July 1, 2023.